United Nations S/2002/834

Security Council

Distr.: General
26 July 2002

Original: English

Report of the Secretary-General to the Security Council on Angola

I. Introduction

1. This report is submitted pursuant to Security Council resolution 1294 (2000) of 13 April 2000, by which the Council requested me to submit to it periodic reports on developments in Angola, including recommendations about additional measures the Council might consider for promoting the peace process in the country. The report provides an update of the situation since my report of 10 October 2001 (S/2001/956).

2. The report summarizes key developments in Angola since the last report, especially developments since the death of the UNITA leader, Jonas Savimbi. It also proposes adjustments to the mandate and structure of the United Nations presence in Angola, following consultations with the Government and other stakeholders in the Angolan peace process, in the context of the Memorandum of Understanding signed by the Government and UNITA on 4 April 2002, the 15-point Agenda for Peace issued by the Government on 13 March 2002 and the outstanding provisions of the Lusaka Protocol.

II. Developments leading to the signing of the Memorandum of Understanding

3. During the consultation undertaken by my Special Adviser for Special Assignments in Africa, Under-Secretary-General Ibrahim A. Gambari, in Luanda last December, the Government of Angola asked the United Nations to resume its role as mediator of the conflict and to be more proactive in the peace process, including by re-establishing contacts with UNITA in support of the effort to find a political settlement to the conflict. Following the request, I wrote to the President of Nigeria, Olesegun Obasanjo, asking for his help in contacting Mr. Savimbi. The Secretariat also established contact with the Community of Santo Egidio in Rome, based on our understanding that Mr. Savimbi had made contact with the Community. In addition, we sought the support of leaders in southern Africa for our efforts.

4. Those contacts were intended to ascertain the readiness of Mr. Savimbi to resume the implementation of the Lusaka Protocol. Moreover, contacts with the external missions of UNITA were established in mid-February 2002, which resulted in expressions of commitment to the Lusaka Protocol by UNITA leaders outside the country, an interest in entering into direct negotiations with the Government under the Lusaka Protocol and a readiness to observe a unilateral ceasefire to address the dire humanitarian situation in the country and to discuss the role of civil society, particularly the churches, in the peace process.

5. Mr. Savimbi was killed in combat on 22 February 2002, however, and the Angolan Armed Forces (FAA) quickly established, in situ, contacts with their counterparts in UNITA with a view to achieving a cessation of hostilities and ending the war. On 13 March, the Government unveiled its 15-point Agenda for Peace, which included a cessation of all military offensives by FAA at midnight of the same date; establishment, in situ, of contacts between the field commanders of the two sides to undertake the groundwork necessary for the establishment of a

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general ceasefire; demilitarization of UNITA troops and their reintegration; general amnesty for the promotion of security and national reconciliation; extension of State administration, in all its aspects, throughout the national territory; elaboration of an emergency programme of humanitarian relief for the war-affected people; resettlement of displaced persons; a national population census; and registration for the electoral process. The Government's Agenda for Peace also contained urgent appeals to the international community not to abandon the people of Angola at a critical juncture in their history.

6. The first official contacts between the commanders of FAA and UNITA forces took place on 15 March 2002 in Cassaba, Moxico Province. The Deputy Chief of General Staff of FAA, General Geraldo Sachipendo "Nunda", and the Chief of High Command of General Staff of UNITA, General Abreu Muengo Wachitembo "Kamorteiro", led their respective delegations. In a joint communiqué issued after the meeting, the two sides reaffirmed their unequivocal commitment to the Lusaka Protocol and expressed their determination to make the necessary efforts for an immediate cessation of hostilities, as well as the resolution of the pending military tasks under the Protocol. They also agreed on an agenda for the talks, which began on 20 March 2002. After two weeks of talks in Luena, Moxico Province, they signed, on 4 April, a Memorandum of Understanding on the cessation of hostilities and the resolution of other remaining issues under the Lusaka Protocol.

III. The Memorandum of Understanding

7. My Special Adviser represented the United Nations at the signing ceremony and also initialled the document as a witness. However, he entered a reservation to the text, which he also stated publicly: the United Nations does not recognize general amnesty for crimes against humanity and for violations of international humanitarian law and war crimes. He also stressed that any obligation assigned to the United Nations in the Memorandum of Understanding was subject to review by the Security Council and the General Assembly.

8. The Memorandum of Understanding is intended to replace the Lusaka Protocol with regard to its military aspects. It details the responsibilities of FAA and those of UNITA forces for the observation of the ceasefire; the quartering of UNITA soldiers and their families; and the collection and destruction of weapons. It also grants a blanket amnesty for all crimes committed during the conflict. Moreover, the Government undertook to provide assistance to UNITA forces, manage the quartering areas and select and incorporate 5,000 UNITA military forces into FAA and the Angolan police. The Government also committed itself to assisting the families of UNITA forces, estimated at 300,000, providing vocational training to UNITA combatants and reintegrating them into civilian life. The Joint Military Commission was reinstated as the main body supervising the implementation of the Memorandum of Understanding. It is chaired by the Deputy Chief of Staff of FAA and includes members of the UNITA military forces, as well as military observers from the United Nations and the Troika, i.e., the United States of America, the Russian Federation and Portugal.

9. The Joint Military Commission is supported by a Technical Group composed of members of FAA and UNITA forces and observers from the United Nations and the Troika. As at 15 June, the Commission had met three times. In addition to the Central Technical Group in Luanda, it has established eight regional technical groups. Each Regional Group consists of 24 FAA and UNITA staff personnel charged with implementing the Memorandum of Understanding in their respective regions. All the quartering areas are managed by the UNITA military, but with financial and other resources provided by the Government of Angola. Although the Government declared on 7 June that the quartering process had been completed, it extended the period by a few days to give time to UNITA military personnel in isolated areas to arrive in the designated quartering areas.

10. The Government has projected a total of 262 days to complete the implementation of the Memorandum of Understanding from its signing on 4 April. At the end of the period, the Government intends to initiate the second phase of the peace process, which will include the re-establishment of the Joint Commission, to be chaired by the United Nations, to implement the outstanding political issues in the Lusaka Protocol. In the consultations held between my Special Adviser and President José Eduardo dos Santos in April 2002, the Government confirmed that the second phase would be

concurrent with the first. However, the Government has underlined the need to ensure that the first phase is on track before starting the second phase.

11. Since the signing of the Memorandum of Understanding, fighting has stopped in the entire country and no violations of the ceasefire have been reported. Furthermore, as at 2 July, more than 84,000 UNITA military personnel, including 658 foreign soldiers, have arrived in 36 quartering areas accompanied by close to 240,000 family members. Initially there were severe logistical difficulties in providing food, shelter and medicine in the quartering areas. However, FAA, United Nations agencies and their humanitarian partners have steadily rectified the initial difficulties and constraints. Nonetheless, the Government and UNITA face many challenges in their efforts to consolidate peace.

IV. Challenges for the consolidation of peace in Angola

Political-security aspects

12. There are certain political and security challenges associated with the proper quartering, disarmament, demobilization and reintegration of ex-UNITA combatants and their families. While most of the quartering has been accomplished, keeping the quartered military forces and their families gainfully occupied and determining their future remains a major challenge. In its 15-point Agenda for Peace, the Government has pledged to give assistance to demobilized soldiers, including those from earlier conflicts (estimated at about 150,000), and also to take care of the disabled, orphans and widows. The World Bank mission to Angola, conducted from 14 May to 4 June 2002, identified three groups of former combatants needing assistance in reintegration into society: about 79,000 people from UNITA, 33,000 from FAA and 160,000 from former case loads. The Government will face a serious challenge if it is to accomplish this task without the support of the international community, especially with respect to technical and management expertise and financial resources. The international community will need to help with the integration of former combatants, including support for vocational training, employment-generation activities and reconciliation programmes. Apart from technical and managerial expertise and advice, the United Nations can offer its good offices to help prevent or resolve conflicts that may arise.

13. Angola also faces the challenge of restoring the rule of law and normalization of State administration. For decades, the country has lived under two administrative systems — that of the Government and that of UNITA. This situation continued even when UNITA lost its conventional military capacity and control over territories. Combatants moved around the country with their families and the population in the areas under their control. The new reality demands a return to a single administrative system in the country. In the past, extension of State administration to areas formerly controlled by UNITA has sparked controversy, conflict and violence. The challenge faced by the Angolan authorities is to devise a strategy of extension of State administration in a way that promotes peace, justice and reconciliation at the regional, provincial and municipal levels.

14. The Government of Angola plans to hold general elections after the conclusion of the peace process. In his letter to me of 6 June 2001, President dos Santos requested the United Nations support in organizing the elections. Consequently, I dispatched a technical team to clarify the nature of assistance required for the electoral process. The team identified a number of challenges in organizing elections in Angola. Although peace is a necessary precondition for conducting free and fair elections, there are additional challenges that stem from the legacy of a protracted civil war. These include the need to establish an appropriate legal framework (revision of the Constitution, electoral law, and appointment of an Independent Electoral Commission), voter registration and education, confidence-building and national reconciliation programmes. Clearly, the efforts of the Government in the electoral process will need to be supported.

Human rights aspects

15. The large-scale humanitarian operations in the camps for internally displaced persons, which were recently enlarged to encompass the quartering and recovery areas for ex-UNITA soldiers and their families, play an important role in preventing a return to conflict at the present time. The more complex task of organizing the return of these citizens to their former communities, while integrating many others in urban centres in the provinces, poses an even greater human rights challenge.

16. The evidence on the ground shows that some Angolans may know their rights but few know how to use the law to protect and exercise those rights. The Human Rights Division of the United Nations Office in Angola has been systematically strengthening civil society organizations such as the Bar Association and a legal aid non-governmental organization, Mãos Livres (Free Hands), to address this problem and provide some legal assistance. Access to legal assistance is especially difficult in Angola, however, since as much as 80 per cent of the population is without the service of legal institutions. The situation in the provinces is most critical and there is an urgent need for medium-term, as well as long-term, solutions in response to complaints of human rights abuses.

17. If peace is to be sustained and conflict averted, all Angolans need to be convinced that the State can and will protect their rights. Given the history of colonialism and civil war for almost 30 years, this may be difficult to ensure quickly without the assistance of the international community, especially in an environment where most adult citizens have been dislocated from their places of origin and do not have identity cards, which is an essential requirement for effective participation in political and civic activities.

18. While the Angolan National Police play a very important role in maintaining law and order and responding to civil disorder, the environment of war has conditioned them to discharge their duties with little concern for respect for human rights. The police force may have strong internal disciplinary structures, but violations of the rights of citizens are not targeted systematically from the top down. In many ways, the police have served as a second army — not only on the battlefront but also in the urban neighbourhoods where they have controlled guerrilla activities. While human rights awareness has been developed to a considerable degree in Luanda, there has been very little impact in the provinces. In most provinces there is limited access to courts, and few resident prosecutors and lawyers to mediate disputes. Local governments, therefore, need to be strengthened and extended to all areas since there are almost no mechanisms specifically designed to protect and promote respect for human rights in those areas.

Protection and rehabilitation of children

19. The impact of over 30 years of civil war has been particularly devastating for Angola's children and young people, who make up the majority of the population. My Special Representative for Children and Armed Conflict had the opportunity to assess this situation at first hand during his recent visit to the country (11-17 May 2002).

20. Children constitute over half of Angola's 4 million internally displaced persons and a large proportion of the population coming out of the recently accessible areas. Most children suffer from severe malnutrition, malaria, measles, diarrhoea, respiratory ailments or other preventable diseases. About 700,000 children have lost one or both of their parents, and approximately 100,000 have been separated from their families, frequently ending up in the streets of larger cities. More than 60 per cent of school-age children do not have access to schooling. Indeed, over 5,000 schools were destroyed during the war. The majority of children do not have access to any form of health care, the infant mortality rate is the second highest in the world and one third of Angolan children die before their fifth birthday. Around 60 per cent of hospitals and health centres were destroyed during the war. Decades of exposure to violence and war have left a legacy of severe psycho-social trauma among Angola's children and young people. Thousands of children were used as combatants during the war and, even at present, they are particularly vulnerable to landmines and unexploded ordnance, which contaminate many parts of the countryside. Achieving sustainable peace and development, in the long run, is also contingent on addressing the critical health, education and other needs of the present generation of Angolan children.

Humanitarian aspects

21. After three decades of warfare, the chances for a sustainable peace are higher than at any time since Angola became independent. The end of the war brings real opportunities to reduce poverty and systematically address the humanitarian needs of the Angolan people. However, the peace dividend is still far from visible to millions of people. One in four Angolans is internally displaced as a direct result of the conflict. Hundreds of thousands of people, particularly in interior regions, are in critical condition, and at least 3 million, or 30 per cent of the population, will require some form of emergency assistance in the next six months.

22. The implications of the cessation of hostilities for Angola's humanitarian crisis are noteworthy. On the one hand, the end of the war has markedly improved

humanitarian access to vulnerable populations but, on the other hand, the intensification of military activity during the final stages of the war resulted in massive displacements and extreme human suffering. Recent assessments confirm that the majority of people in newly accessible areas are in serious distress, having been deprived of social services for many years and having lost their sources of livelihood during the prolonged war. Furthermore, the Government-led quartering process has meant the concentration of more than 300,000 UNITA combatants and their families, many of whom are also in critical condition and require life-saving assistance to survive.

23. These factors have combined to create a generalized humanitarian crisis of immense proportions. In a matter of weeks after the ceasefire agreement, the number of people requiring emergency assistance swelled from 2 million to 3 million. Although the level of internal displacement has decreased following the end of the war, the number of those who can be accessed is on the increase. The number of therapeutic feeding centres for the severely malnourished increased from approximately 20 in March 2002 to more than 50 in June 2002. In contrast, the resources and capacities of United Nations agencies and their partners, which provide the bulk of humanitarian assistance, have consistently remained at levels much lower than the assessed needs. By April, only 13 per cent of the US$ 233 million requested in the 2002 Consolidated Inter-Agency Appeal had been received, increasing only to about 34 per cent by July 2002.

V. Current responses and continuing challenges

24. The humanitarian community, including 100 international non-governmental organizations, 340 national organizations and 10 United Nations agencies, has moved rapidly to expand the emergency operation to cover the critical needs of acutely affected populations. At the same time, the agencies have struggled to maintain existing programmes, while simultaneously laying the groundwork for return and recovery programmes. Thousands of humanitarian personnel are involved in the operations, which cover all humanitarian sectors in 17 of the country's 18 provinces. The next six months are critical, both for the operations and for the country. Humanitarian assistance must reach millions of people to ensure the survival of the hardest-hit communities, promote reconciliation, stabilize vulnerable populations and lay the groundwork for recovery.

25. Despite indications that the forthcoming harvest may be better than last year's, food insecurity is expected to persist, particularly for internally displaced persons who did not have access to good quality land and agricultural inputs during the last planting season. The food-supply pipeline remains precarious at this stage, and may break in October unless funding is urgently received. Funding for other emergency sectors including non-food items, health, water and sanitation and agricultural support is also urgently required. With increased access in the countryside, an efficient logistics network is a top priority. Transport service for non-food items by air and road must be expanded to ensure that emergency assistance is delivered to hard-to-reach locations. In addition, the existing passenger air service must expand to include newly accessible locations and family areas that remain inaccessible by road. In both cases, additional funds are needed. The lack of timely and comprehensive funding is the most significant constraint affecting humanitarian operations.

26. Following a countrywide assessment of some of the newly accessible areas, preliminary requirements for the United Nations and some partner non-governmental organizations for the next six months were outlined in a "bridging request" which was presented to the donor community during an assessment mission to Angola last June (see para. 41) led by my Special Adviser. The request for $141 million is designed to cover the life-saving emergency needs of highly vulnerable people and to support the return of as many internally displaced persons as possible before the next agricultural season. A mid-term review of the appeal, which will give a more complete picture of the requirements for the rest of the year, will be presented in August 2002.

27. Given the enormity of the humanitarian tasks, United Nations agencies and non-governmental organizations alone will not be able to cover all the needs. The Government has made some effort to address the situation, but should do more to share the burden, including by making urgent repairs to key infrastructures such as major surface routes, bridges and airstrips, the condition of which continues to impede the delivery of humanitarian assistance. In addition, the Government should expedite customs clearance for humanitarian material and ensure prompt

issuance of visas for international personnel engaged in the delivery of relief materials.

Status of assistance to families of demobilized UNITA soldiers

28. The rapid pace at which the quartering process is proceeding and the severe nutritional and health status of a sizeable portion of this population (in some quartering areas, a 30 per cent rate of severe malnutrition has been recorded) had initially overwhelmed the implementation capacity of the Government. United Nations agencies moved quickly to assess conditions in the sites immediately after they were given permission by the Government to enter quartering areas on 24 May 2002. The approach of the United Nations and non-governmental organizations is to complement the Government's efforts by providing targeted assistance to families in the quartering areas. By early July 2002, the United Nations had assessed and delivered assistance to 34 of the 36 family quartering areas and multisectoral operations were already under way in at least 20 of those areas. Ongoing and planned activities include the establishment of health and nutritional referral systems, vaccination campaigns, the distribution of emergency food aid, water and sanitation interventions, provision of alternative education for children and distribution of agricultural tools and seeds. In addition, several key protection issues will be addressed, including the status and rehabilitation of child soldiers.

Humanitarian priorities and strategies

29. To cope with the needs of the displaced population and other vulnerable groups, United Nations agencies, including FAO, UNDP, UNFPA, UNHCR, UNICEF, WFP, WHO and ILO, in collaboration with non-governmental and international organizations, have agreed on a common approach aimed at stabilizing the conditions of the most acutely affected populations, while simultaneously undertaking community-based initiatives to facilitate the return, resettlement and reintegration of displaced populations. The agencies will work closely with the newly established National Commission for Social and Productive Reintegration of the Displaced and Demobilized. The reintegration of returnees and the return of internally displaced persons during the short term will be done in line with the Government's legal framework (*regulamento*) and the provincial Emergency Plans of Action for Resettlement and Return currently being developed in each province. As many as 500,000 internally displaced persons will probably return or resettle during the coming months, although mine infestation, potential disputes over land abandoned for many years, the disruption of the health service network and difficult access will affect the extent and speed of the return and reintegration process.

30. The number of Angolan refugees in neighbouring countries totals approximately 450,000, including 234,238 in Zambia, 194,332 in the Democratic Republic of the Congo, 24,900 in Namibia and 15,430 in the Republic of the Congo. The majority of these refugees originate from the Provinces of Moxico, Uige, Zaire and Cuando Cubango. While conditions for the organized voluntary return of refugees are not yet in place, owing to logistics and security constraints, accessibility problems and low absorption capacity in areas of return, a spontaneous repatriation movement has started, and an estimated 10,000 persons have already returned to Angola through Zaire, Uige and Moxico Provinces. According to estimates, at least 80,000 refugees could return spontaneously before the end of 2002. To address this, UNHCR field offices are reopening in the major returnee provinces to prepare reception conditions and facilities. Local conditions permitting, UNHCR plans to start organizing, as from early in 2003, large-scale movements of return on behalf of the remaining refugees.

Transition to recovery and medium-term development

31. While there are some positive economic developments (GDP grew at a rate of 3.5 per cent in 2001 and inflation has been on the decline, slipping from 268 per cent in 2000 to 116 per cent in 2001), social indicators remain at very low levels. According to a survey released by the Government in November 2001, the rate of extreme poverty rose to 26 per cent of the population in 11 of the 17 provinces surveyed between 1995 and 2001. In addition, a study by the Government and United Nations agencies in November 2001 confirms that the HIV/AIDS prevalence rate is estimated to have nearly tripled since 1999, reaching 8.6 per cent. There is concern that the transmission rate is particularly high among specific high-risk groups. An effective response to the increasing threat of HIV/AIDS, particularly in the light of expected

population movements during the post-conflict period, is an urgent priority.

32. Together with specific post-conflict measures for the successful reintegration of returnees, including both internally displaced persons and refugees, the United Nations and the international community should focus their medium-term strategy on helping the Government to face four major challenges, namely, (1) the reduction of rural and urban poverty through policies that promote improved access of the poor to employment, land and other resources; (2) the rebuilding of the social sectors, with particular emphasis on basic social services including health and education; (3) the mounting of an effective response to the increasing threat of HIV/AIDS, taking into account population movements during the post-war period; and (4) the promotion of political participation and democratic accountability, combined with the strengthening of public administration, including systems for ensuring rigour and transparency in the management of public resources.

33. In the context of ongoing institutional reform and efforts towards greater decentralization and improved transparency, initiatives are already being undertaken to strengthen national capacity to manage public affairs, improve the delivery of public services, promote transparency, coordination and accountability, and strengthen public-private partnerships. As part of the wider Programa Global de Reforço da Capacitação Institucional e Administração da Justiça (Comprehensive Programme for Strengthening Institutional Capacity and the Administration of Justice) of the Ministry of Justice, a complementary initiative aimed at capacity-building at local levels in support of resettlement and the creation of sustainable livelihoods is being supported by two United Nations agencies. The aim is to recruit, train and field municipal justice personnel throughout the country. The Ministries of Finance, Education and Health have also taken steps towards improving the budgetary allocation mechanisms by developing a study on expenditures in the social sectors, supported by three United Nations agencies and the International Organization for Migration.

34. In addition to this initiative, two World Bank missions were fielded during May and June 2002 to help the Government prepare an Emergency Demobilization and Reintegration Programme and assess the needs for overall reconstruction and development during the immediate post-conflict period.

35. Following the Government's request, UNDP has formulated a Pilot Reintegration and Recovery Programme. The approach is based on a strategic shift from resettlement to return and reintegration of war-displaced populations. The Pilot Reintegration and Recovery Programme aims to provide material assistance to target populations and to strengthen local capacity to deliver assistance.

36. Despite the scale of domestic resources available to the Government, dependence on donor assistance has been extremely high in some specific sectors, including humanitarian assistance. Continued support from donors cannot be guaranteed, although a re-direction of expenditures by the Government towards the social sectors will make it easier to advocate for complementary funding from the international community. Many donors are still waiting to see if key strategy documents, such as the Interim Poverty Reduction Strategy Paper, will provide a clear policy direction. The International Monetary Fund has been unable, under its rules, to consider lending to Angola without the successful implementation of the necessary reforms. An agreement between the Government and IMF on a Fund loan is not considered likely before 2003.

Mine action

37. Angola is one of the most heavily mined countries in the world and has one of the highest rates of landmine injuries per capita. Most mine action is undertaken by international non-governmental organizations, working effectively although with insufficient resources relative to the scope of the problem. There has been no recent assessment of the Government's capability for mine clearance and a quick response is likely to be hampered by a lack of logistics, training, and quality control. National priority setting and coordination remain poor although the Government, with UNDP support, has been working to improve this. At the provincial level, the effectiveness of coordination varies.

38. Donors report that three factors inhibit their funding of mine action, namely, (1) lack of resources committed by Government; (2) continuing use of mines and non-ratification of the Ottawa Convention; and (3) perceived management weaknesses in the national

programme. However, the Government of Angola ratified the Ottawa Convention on 5 July 2002 and has stated its intention to address the remaining issues.

39. Short-term international responses should build on existing capacities. Urgent resources are required to expand mine action and reorient current activities in line with new circumstances including, for example, increased surveys of newly accessible areas and mine risk education, coordinated by UNICEF, for returning populations. Strengthened coordination is required at national and provincial levels. Concurrent support to the national institutions is crucial in assisting the Government to determine national priorities and a longer-term strategy, including the development of its own capabilities in this field.

40. The immediate deployment by UNDP of a United Nations Mine Action Programme Manager is planned, to advise the Government and to coordinate the United Nations mine action response. Provincial field advisers will assist local authorities and the Office for the Coordination of Humanitarian Affairs in integrating mine action into the plans of non-governmental organizations and United Nations agencies, such as UNHCR and WFP. The United Nations Mine Action Service is assisting UNDP to launch these activities. Cost estimates are $18 million for operations and $1.2 million for capacity-building and coordination. Exact funding requirements will be included in the Consolidated Inter-Agency Appeal, taking into account the results of the provincial Emergency Plans of Action for Resettlement and Return.

VI. The United Nations role in support of the consolidation of peace

41. As Angola faces the challenges associated with the consolidation of peace, the country will require significant support by the international community and the United Nations in particular. To determine the extent to which the United Nations system can support Angola in this process, I requested my Special Adviser for Special Assignments in Africa to lead a multidisciplinary team comprising representatives of humanitarian and development agencies, as well as political, military, logistical and public information personnel. My Special Adviser and members of the team held meetings with government officials, including with President dos Santos, and other stakeholders and visited some quartering areas. The findings of the team are reflected below. The Government of Angola has been consulted and has indicated its broad agreement with the concept of operations outlined below for the proposed mandate and presence of the United Nations in Angola.

A. Key objectives

42. In order to support the consolidation of peace, the promotion of national reconciliation and a transition to normalcy in Angola, the United Nations system will enhance its presence and step up its operations throughout the country in a comprehensive manner. It is envisaged that this will be done in a phased manner, the initial focus to be on the continuing delivery of urgently needed humanitarian assistance throughout the country, including to internally displaced persons, and on assisting the implementation of the Memorandum of Understanding, in particular the process of quartering, demobilization and reintegration of ex-combatants. This initial phase is expected to be relatively short, taking into account the timetable of the Memorandum of Understanding and the desire of the Government to quickly and firmly return to normalcy. While humanitarian assistance is likely to be required for a considerable period, the long-term aim of the international community would be to assist the process of reconciliation and economic recovery through peace-building. Obviously, the success of the consolidation of peace depends first and foremost on the Government of Angola, in terms of political will and the extent of the resources it is willing to commit to the process.

43. It is the Government's intention to move as quickly as possible to resolve the outstanding issues of the Lusaka Protocol. To that end, it intends to establish the Joint Commission envisaged in the Protocol as soon as the military aspects of the Memorandum of Understanding have been completed, that is, once UNITA has completely disarmed, demobilized its troops and disbanded its military organization. The United Nations is expected to chair the Joint Commission and offer its good offices to help the parties to advance the process of national reconciliation and, more generally, the consolidation of peace. A public information campaign aimed at explaining this process to the Angolan people will underpin these efforts.

B. Main tasks

44. The main tasks before the United Nations in support of the consolidation of peace in Angola include the following elements:

- To facilitate and coordinate the delivery of humanitarian assistance to vulnerable groups, including internally displaced persons and families in quartering areas throughout the country.
- To provide technical advice and support for mine action.
- To liaise with the parties through the Joint Military Commission and other relevant bodies with regard to the implementation of the Memorandum of Understanding.
- To provide technical advice to and general observation of the quartering, demobilization and reintegration process, if so requested by the Government of Angola.
- To chair the Joint Commission, once it has been established, and promote national reconciliation.
- To assist in the protection and promotion of human rights and in the building of institutions to consolidate peace and the rule of law.
- To assist in the mobilization of resources in support of the peace process, in particular through the preparation of an international donor conference.
- To help promote economic recovery through the relevant United Nations agencies.
- To provide technical advice, in accordance with the request of the Government of Angola, in preparing for and conducting the elections.

45. To achieve these tasks in the most effective manner, it will be necessary for the United Nations to establish an integrated and well coordinated presence in Angola. The United Nations would focus its work on two broad areas. The first would cover the political, human rights and military aspects and the second the humanitarian (including mine action), economic recovery and development aspects.

46. The quartering demobilization and reintegration of UNITA ex-combatants will remain the responsibility of the Government of Angola. The World Bank will be the lead agency in assisting the Government of Angola in this process, primarily in the realm of financial assistance. At the same time the United Nations would continue discussions with the Government and the World Bank on the optimal modalities for ensuring the effective implementation of the quartering, demobilization and reintegration process and is prepared to provide advice and share its technical expertise in this field.

C. Mandate for assisting the consolidation of peace

47. To implement the new tasks described above, the mandate of the United Nations Office in Angola, which is set out in Security Council resolution 1268 (1999), would need to be adjusted to include the following additional tasks:

- To liaise with the parties through the Joint Military Commission and the Technical Group.
- To provide advice to and general observation of the quartering, demobilization and reintegration process, if so requested by the Government of Angola.
- To chair the Joint Commission, once it has been established, and promote reconciliation through good offices.
- To assist in the development of strategies and programmes to consolidate peace.
- In the area of human rights, to provide assistance for the building of institutions in support of the rule of law and to assist the promotion and protection of human rights in the context of national reconciliation and democratization.

48. This expanded mandate would require a new mission to succeed the United Nations Office in Angola, headed by a Special Representative of the Secretary-General who would lead the United Nations system in Angola and ensure coordination and integration in support of the consolidation of peace. In this connection, the Special Representative would assume the lead on the provision of United Nations support for the political and military functions envisaged in the first and second phases of the peace process, and help to conclude the implementation of the Lusaka Protocol. He or she would also promote, in the framework of the Memorandum of Understanding,

the coordination of quartering, demobilization and reintegration and other activities between the United Nations and the World Bank.

49. For military tasks the new mission would require an increase in personnel, including 11 military liaison officers who would liaise with both FAA and military or former military components of UNITA. In my letter of 25 June 2002, I requested that the Security Council urgently approve the deployment of these personnel in connection with the immediate tasks of the United Nations in this area, and I am grateful for the Council's positive response. I wish to report that, to date, 7 of these United Nations military personnel have already been deployed in Angola.

50. As provided for in the Memorandum of Understanding, the military personnel would take part in the work of the Joint Military Commission, the Central Technical Group established in Luanda and, as needed and as logistical and security conditions permit, in the regional technical groups. In addition, they would provide military advice to the Head of Mission. They will be based in Luanda and will visit locations in the provinces if and when required.

51. To assist the Special Representative of the Secretary-General in chairing the Joint Commission, a few political affairs officers would be required for assignment to the Commission's secretariat when it is re-established. The actual number of officers will be determined when the scope of political tasks is clearer. Some modest interpretation facilities may also be required. In order to promote enhanced coordination within the United Nations system, some of those officers would perform liaison functions with the World Bank.

52. Assistance in the promotion and protection of human rights would require the deployment of 16 additional United Nations human rights officers to key provinces, in close coordination with humanitarian personnel already on the ground in those locations. This deployment would enable the United Nations to extend the reach of its programmes to more effectively support institution-building and national reconciliation, and to assist in the promotion and protection of the human rights of refugees, internally displaced persons, ex-combatants and their families. In view of the magnitude of the problems associated with rehabilitation of children and the needs of youth, the deployment of a Child Protection Adviser would also be considered.

53. The logistical and administrative capacity of the United Nations Office in Angola would also need to be augmented to adequately support the new mission. There would be a requirement for some additional vehicles, offices, communications equipment and support personnel. In this regard, I trust that the Government of Angola will make the necessary additional accommodation and other essential premises available to the new mission. Furthermore, the deployment of one light aircraft and one long-range helicopter would be required to ensure the necessary mobility of the military liaison and observer personnel.

54. Meanwhile, the most urgent task of the United Nations system with regard to the consolidation of peace in Angola remains the delivery of humanitarian assistance to the 3 million Angolans in need. Key priorities in this regard will be rapid delivery of food assistance to prevent hunger, support for resettlement and return, the provision of health packages and improved access to health care, an expansion of access to safe water and adequate sanitation systems, and the promotion of education and mine action. For the present, the United Nations humanitarian agencies will try to face these tasks with the current level of personnel deployed on the ground. However, significant additional resources will be urgently required from donors if the humanitarian organizations are to address the needs of vulnerable populations in an adequate manner. For the economic and recovery and development tasks, UNDP and other United Nations agencies would need to formulate mid-term and long-term programmes.

VII. Observations

55. The United Nations has been involved for a long time in the search for peace and reconciliation in Angola. Following the signing of the New York Agreements in 1988, the United Nations helped to supervise the withdrawal of Cuban troops from Angola and, from 1991, helped to implement the Bicesse Accords, including the general elections held in 1992. From 1994 to 1998, the United Nations assisted in the implementation of the Lusaka Protocol. In recent years, the Organization has attempted to help bring an end to the fighting that escalated in 1998 as a result of the refusal by UNITA to comply with the provisions of the

Lusaka Protocol and relevant Security Council resolutions. The United Nations has also continued to deliver much-needed humanitarian assistance to an estimated 2 million vulnerable people and displaced persons, as well as to about 450,000 Angolan refugees, mostly in Zambia and the Democratic Republic of the Congo but also in Namibia and the Republic of the Congo.

56. Since October 1999, the United Nations Office in Angola has been assisting the Angolan people in capacity-building, provision of humanitarian assistance and promotion of human rights. My Special Adviser for Special Assignments in Africa has been paying particular attention to Angola in conjunction with my Representative for Angola and Head of the United Nations Office in Angola. The signing on 4 April 2002 of the Memorandum of Understanding to complement the Lusaka Protocol marked a new era in the Angolan peace process and presented new challenges for the United Nations presence in Angola.

57. Although the people of Angola have gone through great suffering during three decades of civil war, it is encouraging to note that the prospects for long-term peace are better today than at any time before. More than 84,000 UNITA troops have been quartered with their weapons and the ceasefire is holding. The Government and UNITA have also taken responsibility for managing the peace process. However, they will need the active support of the international community to overcome the political, security, humanitarian and socio-economic challenges and to consolidate peace in the country.

58. In order to support the efforts to consolidate peace in Angola, the United Nations presence in the country, as indicated above, will need to be strengthened and better coordinated and integrated. The proposed United Nations mandate and presence would allow for the performance of the functions that have been identified above in consultations with the Government, mainly during the technical assessment mission in June. Any additional tasks for the United Nations that are not currently envisaged and that may nevertheless arise would obviously require further discussions between the United Nations and the Government, as well as authorization by the Security Council.

59. The United Nations is required to play an important role in the consolidation of peace in Angola, given the complex and difficult tasks assigned to the United Nations by the Lusaka Protocol, the Government's 15-point Agenda for Peace of March 2002 and the Memorandum of Understanding. Accordingly the Security Council may wish to establish a new mission in Angola to succeed the United Nations Office in Angola, as outlined in the preceding section. If authorized by the Council, the new mission would be called the United Nations Mission in Angola (UNMA) and would be headed by a Special Representative of the Secretary-General. Under his or her overall authority, the mission would comprise two components. One would be for the political, military and human rights aspects, under the direct supervision of the Special Representative. The Resident Coordinator would be concurrently designated as Deputy and would supervise the second component, for humanitarian, economic recovery and development tasks, through the coordination of the work of the various United Nations agencies involved.

60. In view of these considerations, I recommend that the Security Council approve the mandate of the new mission in accordance with the objectives described in section VI of this report. I recommend that the mandate for the new mission should be for an initial period of six months, from 16 August 2002 to 16 February 2003, with provision for a mid-term report for the Security Council's consideration. The newly identified tasks, with appropriate resources, are expected to be of a temporary nature. However, it cannot be excluded that the process of demobilization and reintegration, and national reconciliation, may take longer than the six months envisaged and that, therefore, some of the functions described above may need to be extended to accommodate the situation.

61. In concluding, I wish to thank my Representative for Angola and the United Nations Resident Coordinator in the country for their valuable efforts, during a difficult period, to assist in promoting peace and reconciliation in Angola.

United Nations S/2002/835

Security Council

Distr.: General
26 July 2002
English
Original: French

Letter dated 26 July 2002 from the Permanent Representative of Algeria to the United Nations addressed to the President of the Security Council

During the most recent Security Council consultations, significant changes were made to the text of the draft resolution on Western Sahara, in particular in paragraph 1, giving the Personal Envoy of the Secretary-General a mandate to elaborate a new proposal for the settlement of the question of Western Sahara which would enable the people of Western Sahara to exercise their right to self-determination, taking into account the principles and provisions of both the settlement plan and the draft framework agreement.

The Permanent Mission of Algeria in New York believes that this is a promising approach which deserves to be encouraged, as it is in conformity with international law and United Nations doctrine on decolonization, its aim is to ensure the holding of a referendum on genuine self-determination for the Sahrawi people and it would enable the Security Council to continue its work, in a spirit of renewed unity and cohesion, to promote a mutually acceptable political solution to the conflict in Western Sahara.

I should be grateful if you would take the necessary steps to have this letter circulated as a document of the Security Council.

(*Signed*) Abdallah **Baali**
Ambassador

02-49858 (E) 260702 260702

United Nations S/2002/836

Security Council

Distr.: General
26 July 2002

Original: English

Letter dated 26 July 2002 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council

I should be grateful if you would circulate as a document of the Security Council the attached document, a summary of key themes of the Security Council's workshop on the Mano River Union on 18 July 2002, prepared by the United Kingdom of Great Britain and Northern Ireland Presidency of the Council.

(*Signed*) Jeremy **Greenstock**

02-49963 (E) 300702

BEST COPY AVAILABLE

Annex to the letter dated 26 July 2002 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council

SECURITY COUNCIL WORKSHOP ON THE MANO RIVER UNION 18 JULY 2002

Summary of Key Themes Prepared by the Presidency

Lessons Learned in Sierra Leone

The workshop discussed the lessons learned from UNAMSIL's deployment in Sierra Leone and the significant improvements made since the crisis of May 2000. It was agreed that, while every conflict situation was different, some factors were common to all:

Peacekeeping operations

- There is a need for early international attention and prompt action, including by the Security Council.

- There should be rapid agreement to an appropriate, clearly defined and robust mandate for any UN peacekeeping force, backed up by adequate resources.

- The key players must share a common purpose and the determination to drive it forward. This includes both Security Council members, neighbouring countries, the UN Secretariat and troop contributors.

- All key players, both in New York and in the field, must share a common understanding of peacekeeping mandates and the rules of engagement of peacekeeping operations (PKOs). This is essential to allow clarity of purpose and objective about a PKO's political aims and its operational activity.

- UN PKOs should be prepared for the worst case scenario. The capacity and determination of rebel forces should not be underestimated. PKO resources should not be measured simply by the number of troops. The quality of their equipment and training, and the political commitment behind them, are crucial in ensuring that a PKO can implement its mandate. Member states' tenacity and determination to stay the course are vital.

- A strong PKO deployment is an effective deterrent to parties who might otherwise return to fighting. A robust military posture should be complemented by political engagement so there is a clear, preferable alternative to the military option.

- It can be valuable to have a lead nation to drive forward the international effort.

- A regional strategy is needed from the start. This is particularly true in Sierra Leone as the situation in all three Mano River Union countries is so inter-connected.

- Interventions must be properly co-ordinated, both within the UN family and between the UN and regional players like ECOWAS. Any transition from a regional intervention to a UN PKO needs to be especially carefully managed so that command and control of troops is clear.

- All UN efforts must be integrated within the peacekeeping mission. Peacekeepers are more successful when they work alongside human rights specialists, development experts and the humanitarian community. The DSRSG for Governance and Stabilisation in Sierra Leone, also the Resident Co-ordinator, is a good example of the necessary operational integration.

- Flexibility is needed to respond to changing circumstances, so that the Security Council does not get locked into strategies which clearly aren't working. This may need to include the provision of additional resources, or strengthening of peacekeeping mandates, as happened with UNAMSIL after May 2000.

- PKOs should not withdraw too quickly. The benchmarks for drawdown need to be carefully thought through and factored into planning early on, including in the development strategy of the country concerned.

Peacebuilding

The transition from peacekeeping to peace-building is crucial and needs to be built into planning at an early stage. They are part of the same continuum and should overlap.

- Security sector reform is a critical element of post-conflict support. This needs to get underway early, while the protective umbrella of a UN PKO remains. Reforms must be sustainable. Strengthening the capacity of the police is one of the next key challenges for Sierra Leone.

- Reform of the judicial and penal systems, and building respect for human rights, are equally important. The issue of impunity must be addressed (as in Sierra Leone through the special hybrid process of the Special Court and the Truth and Reconciliation Commission) to facilitate reconciliation and the return of refugees. In the longer term, this also helps attract investment.

- The economic, as well as political, causes of conflict must be addressed. If unemployed young people – not all ex-combatants – have no economic opportunities, this can threaten stability.

- Adequate funding must be allocated to post-conflict peace building initiatives. These are a type of conflict prevention themselves and are much cheaper than peacekeeping. UNAMSIL costs $700million a year, yet it is difficult to find even $13 million for reintegration. Bilateral and other donors have to get involved and complement the UN's efforts, as part of a co-ordinated strategy (such as the UN

strategy to support national recovery and peacebuilding in Sierra Leone). A phased approach from peacekeeping (funded from assessed contributions) to peacebuilding (voluntary contributions) is needed.

- The World Bank can help governments in post-conflict transitions by providing budget and technical support, complementing key partners' efforts.

Humanitarian action

In discussion of the humanitarian aspects of Sierra Leone, the key points made were:

- Civilians were the direct object of attack in Sierra Leone; they were not just incidental victims of the conflict. There was massive population displacement.

- The appointment of the combined DSRSG/Humanitarian Co-ordinator in Sierra Leone allowed humanitarian issues to be centralised within the political and military decision-making of UNAMSIL. Concerns that this would jeopardise the independence of the humanitarian actors and subordinate them to a political agenda were not realised.

- The aide-memoire on protection of civilians in conflict must be used when the Council draws up peacekeeping mandates:
  - All the relevant objectives of the 13 themes in the aide-memoire were included in UNSCR 1270 (UNAMSIL's mandate). SCR 1270 specifically authorised UNAMSIL to protect civilians under imminent threat of violence. This was an important step towards greater cohesion and integration in peacekeeping operations.
  - The humanitarian information centre in UNAMSIL helped provide accurate security and military information, crucial for the protection of humanitarian personnel and civilians.
  - DDR should be built into peace agreements and the special needs of children recognised.
  - Women and girls suffered disproportionately in the Sierra Leone conflict. They were the victims of terrible sexual violence. PKO mandates should include the special protection and assistance needs of women and girls – not just gender mainstreaming but responses to endemic gender-based violence and sexual exploitation.
  - Peacekeepers should be trained in humanitarian, human rights and refugee law. Human rights and civil affairs offices should be included in all PKOs.

- It was welcome that UNAMSIL peacekeepers were able to improve humanitarian access and help UNHCR return refugees and IDPs to their homes.

- Special attention should be paid to gender issues in justice and reconciliation. Rape was used as a war crime in Sierra Leone. Adequate funding must be provided for the mechanisms of justice.

- The continued, and recently increasing, refugee flows in the region are a security problem as well as a humanitarian one. Addressing this is part of building regional security. Refugee flows can be an indicator of trouble or conflict to come.

- More funding is needed to address the humanitarian problems of the region.

The Mano River Union: A Co-Ordinated Plan For The Way Ahead

During discussion about the future of the Mano River region, the following themes and ideas for the way ahead emerged.

Peace-building in Liberia

- Peace in Liberia is a prerequisite for stability in the sub-region. It is essential to protect the investment the international community has made in Sierra Leone.

- All efforts at reconciliation within Liberia and between Liberia and its neighbours must be encouraged and co-ordinated. These include the Rabat Process (including a second summit), the Inter-Religious Council of Liberia, and ECOWAS. All parties must participate; talks in which the government or the LURD do not take part will not produce results. The participation or observation of the UN, as well as regional organisations like ECOWAS and the African Union, could lend credibility to such talks and strengthen support for the implementation of any agreement which emerges.

- Such talks should aim, first, at a ceasefire; and then at a wider programme of reconciliation including DDR, free, fair and inclusive elections, improved governance and respect for human rights.

- The new UN West Africa office in Dakar could play an important role in these efforts. It can act as a focal point for the UN's support for peace building and a concrete demonstration of the UN's interest in peace building in the region.

- The efforts of civil society, such as the Mano River Union Women's Peace Network, should be recognised and supported.

- Liberia's relations with its neighbours are an essential factor in improving security. Liberia's neighbours must prevent attacks being launched from their territories into Liberia, as UNSCR 1343 demands.

- Alongside the current policy of containment, the possibilities for constructive engagement with Liberia should be considered in order to increase the incentive for President Taylor to promote internal dialogue and reconciliation, a DDR programme for armed factions, security sector reform, improved governance and democratic institutions and respect for human rights. A comprehensive conflict resolution strategy is needed for Liberia, as for Sierra Leone.

- The UN should consider assistance to the elections in Liberia in 2003. Meanwhile democratic elements in Liberia, including civil society and the church, should be encouraged and supported. It is essential not just to replace one poor government with another. Freedom of expression for the press, political parties, NGOs and the Liberian people must be guaranteed. The UN should strengthen its efforts by appointing a new head of the UN Office in Liberia and extending its mandate to include promoting national reconciliation, improving public information and increasing the focus on human rights.

- The humanitarian situation in Liberia must be addressed. Humanitarian assistance should not be conditioned by political strategies or imposition of sanctions.

Sanctions

- The sanctions on Liberia have helped to cut President Taylor's links to the RUF and restore peace to Sierra Leone. The Security Council should make this clear to other key players, such as ECOWAS, in order to reconcile possible differences that could open up between the Security Council and others, and thus build and maintain a consensus on the future of sanctions.

- It must be made clear that sanctions are mechanisms for contributing to peace and security, not instruments of reprisal.

- The continuing flow of small arms into West Africa threatens to destabilise the region. Efforts to stop this must be reinforced and the source of arms supplies identified. The ECOWAS moratorium on small arms should be reinforced.

- Illegal exploitation of economic resources like diamonds must also be stopped, backed up by global efforts such as the Kimberly Process. Governments in the region must adopt policies to manage and regulate the use of natural resources for the benefit of the whole population.

Regional and sub-regional organisations

- The UN should involve ECOWAS fully in a co-ordinated approach to the sub-region, particularly through the new UN Office for West Africa. Other regional organisations, such as the African Union's new Peace and Security Council, should be involved where appropriate.

- ECOWAS capacity in mediation and conflict prevention needs strengthening, including support for their four early warning regional centres.

- The Mano River Union should play a more active role in building and maintaining peace and security in the sub-region. To do so it needs additional support, to revive its institutions and to implement its existing protocols, especially on security and defence, and the confidence-building measures recently agreed (eg joint border security patrols).

- The Mano River Union is an important forum for building personal relationships among heads of state. The Security Council might invite the three foreign ministers to a meeting in the margins of the General Assembly to review progress of the Rabat Process.

UN action

- The UN system, including the Bretton Woods institutions, has strategic initiatives in place to support reconstruction and recovery in the region. But these suffer from a lack of funding and the absence of a co-ordinating policy mechanism at regional level. The following are therefore needed:

    - Additional financial resources at the national level to implement quick impact projects to help consolidate peace (eg through the Sierra Leone recovery and peacebuilding strategy).
    - The UN Office for West Africa should prepare, with UN country teams, the MRU and ECOWAS, a co-ordinated and integrated UN strategic framework document to back up the Rabat Process and build confidence among the parties, including on cross-border issues like HIV/AIDS and trade. This would provide a political framework for the economic and development efforts underway by UNDP and others.

- A further Security Council mission to the region could, amongst other aims, help shape the regional strategy to be developed by the UN Office for West Africa.

- The UN Office for West Africa should do an audit of armed groups in the region as a first step towards a wider DDR programme.

- A contact group on the MRU, with limited membership, could be useful in forging a coherent agenda in support of the Rabat Process and sub-regional peace efforts.

- The new ECOSOC ad hoc advisory group on African countries emerging from conflict offers an opportunity to work with the Security Council's new ad hoc group on Africa. The Security Council group should increase dialogue and co-ordination with regional players.

United Nations S/2002/837

Security Council

Distr.: General
26 July 2002

Original: English

Letter dated 23 July 2002 from the Permanent Representative of Denmark to the United Nations addressed to the Secretary-General

I have the honour to draw your attention to the statement concerning Georgia, the recent attack on the Liberty Institute in Tbilisi and other incidents, issued on 22 July 2002 by the Presidency of the European Union on behalf of the European Union (see annex).

I should be grateful if the text of this letter and its annex could be circulated as a document of the Security Council.

(*Signed*) Ellen Margarethe **Løj**
Permanent Representative of Denmark
to the United Nations

02-49939 (E) 260702

Annex to the letter dated 23 July 2002 from the Permanent Representative of Denmark to the United Nations addressed to the Secretary-General

[Original: English, French and Spanish]

Statement concerning Georgia, the recent attack on the Liberty Institute in Tbilisi and other incidents, issued on 22 July 2002 by the Presidency of the European Union on behalf of the European Union

The European Union expresses its deep concern about the attack carried out on 10 July 2002 against the Liberty Institute Centre in Tbilisi. This attack, as well as other incidents against non-governmental and religious organizations, undermines freedom of thought and religion in Georgia.

The European Union calls on the Government of Georgia to respect its commitments as a member of the Council of Europe and the Organization for Security and Cooperation in Europe. All Georgian citizens have the legitimate right to engage in peaceful activities, without fear of criminal and violent acts. Failure to improve the current security environment and consolidate the rule of law will negatively influence both the political and economic situation in Georgia.

The European Union calls upon the Government of Georgia to do all in its power to ensure a rapid and thorough investigation into the incident, so as to bring to justice those responsible for the attack. The European Union further invites the Georgian authorities to take appropriate measures to ensure the security of non-governmental and religious organizations as well as their staff.

The Central and Eastern European countries associated with the European Union, the associated countries Cyprus, Malta and Turkey, and the EFTA countries Iceland, Liechtenstein and Norway, members of the European Economic Area, align themselves with this statement.

United Nations S/2002/838

Security Council

Distr.: General
26 July 2002

Original: English

Letter dated 23 July 2002 from the Permanent Representative of Denmark to the United Nations addressed to the Secretary-General

I have the honour to draw your attention to the statement on the Sudan issued on 23 July 2002 by the Presidency of the European Union on behalf of the European Union (see annex).

I should be grateful if the text of this letter and its annex could be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Permanent Representative of Denmark to the United Nations

02-49969 (E) 290702

Annex to the letter dated 23 July 2002 from the Permanent Representative of Denmark to the United Nations addressed to the Secretary-General

[Original: English, French and Spanish]

Statement on the Sudan issued on 23 July 2002 by the Presidency of the European Union on behalf of the European Union

The European Union warmly welcomes the agreement reached between the Government of the Sudan and the SPLM/A in Machakos, Kenya, on 20 July 2002 on the two most contentious issues, namely, the right to self-determination for the people of South Sudan and State and religion.

The European Union strongly urges all parties to the conflict in the Sudan to adhere to the agreement and to work in a dedicated manner to accomplish a comprehensive peace agreement when negotiations resume in mid-August 2002.

The European Union confirms its strong support for the IGAD peace process, the facilitative role of Kenya therein and those external partners that have played a crucial role in achieving this result.

The Central and Eastern European countries associated with the European Union, the associated countries Cyprus, Malta and Turkey, and the EFTA countries members of the European Economic Area align themselves with this statement.

United Nations S/2002/839

Security Council

Distr.: General
26 July 2002

Original: English

Letter dated 23 July 2002 from the Secretary-General addressed to the President of the Security Council

I have the honour to refer to the military component of the United Nations Mission of Support in East Timor (UNMISET).

Lieutenant General Winai Phattiyakul of Thailand, who has served since 1 September 2001 as Force Commander of the United Nations Transitional Administration in East Timor and of UNMISET, will relinquish his post on 30 August 2002. I wish to inform the Security Council of my intention to appoint Major General Tan Huck Gim of Singapore to the post of Force Commander of UNMISET with effect from 31 August 2002.

I should be grateful if you would bring this matter to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

02-49945 (E) 260702

United Nations S/2002/840

Security Council

Distr.: General
26 July 2002

Original: English

Letter dated 26 July 2002 from the President of the Security Council addressed to the Secretary-General

I have the honour to inform you that your letter dated 23 July 2002 (S/2002/839) concerning your intention to appoint Major General Tan Huck Gim of Singapore to the post of Force Commander of the United Nations Mission of Support in East Timor (UNMISET) has been brought to the attention of the members of the Security Council. They take note of the intention contained in your letter.

(*Signed*) Jeremy **Greenstock**
President of the Security Council

02-49951 (E) 260702

United Nations A/56/1014–S/2002/841

General Assembly
Security Council

Distr.: General
26 July 2002

Original: English

General Assembly
Fifty-sixth session
Agenda item 166
Measures to eliminate international terrorism

Security Council
Fifty-seventh year

Letter dated 26 July 2002 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General

I am writing to draw your attention to the latest incidents in the ongoing campaign of Palestinian terrorism directed against the citizens of Israel.

Yesterday morning, at approximately 4 a.m. (local time), Elimelech Shapira, a rabbi and father of eight children, was driving near the community of Alei Zahav when Palestinian terrorists, who had been lying in ambush, opened fired on his vehicle with Kalashnikov rifles. Shapira was critically wounded and later died of his injuries; his companion who was riding in the passenger seat was injured and evacuated to a nearby hospital. The Al Aqsa Martyrs Brigades, the terrorist wing of Chairman Arafat's Fatah movement, claimed responsibility for the attack.

This afternoon, four Israelis, including a child, were killed in two shooting attacks south of Hebron. According to reports, the gunmen opened fire at an Israeli vehicle as it approached the Zif Junction. Three Israelis were killed and another passenger was injured. The gunmen then continued on their way until they reached the community of Carmel where they fired on another vehicle, killing one and wounding two others. Three of those killed this afternoon were from the same family. The Al Aqsa Martyrs Brigades claimed responsibility for this attack as well.

Palestinian terrorists have also increased their rocket attacks on Israeli communities. Late Wednesday night, two Kassam rockets were fired from the Gaza Strip at two different Israeli positions. One child was treated for shock and a building was damaged. The following day another Kassam rocket was fired from the Gaza Strip at a town in the western Negev. No injuries were reported but some damage was caused.

Israel holds the Palestinian Authority and its Chairman responsible for these latest attacks. Such attacks are only possible through the financial and logistical support that the Palestinian leadership has supplied to terrorist groups and are the product of years of incitement to violence and terrorism in the official media, the demonization of Jews and Israelis in the Palestinian educational system, and the glorification of suicide bombers that pervades Palestinian society.

02-49916 (E) 260702

Yesterday's attack confirms the continuing need for Israeli defensive measures in the face of unrelenting threats of Palestinian terrorism. So long as the Palestinian Authority refuses to fulfil its responsibility to fight terrorism, in accordance with its signed obligations and the resolutions of the Security Council, Israel will have to take the necessary measures to ensure the safety and security of its citizens. Israel calls upon the Palestinian Authority to take the steps necessary to bring about a cessation of all acts of terrorism and the resumption of a political process.

I submit this letter in follow-up to numerous letters detailing the campaign of Palestinian terrorism that began in September 2000.

I should be grateful if you would arrange to have the text of this letter circulated as a document of the General Assembly, under agenda item 166, and of the Security Council.

(*Signed*) Aaron **Jacob**
Ambassador
Chargé d'affaires a.i.

United Nations S/2002/842

Security Council

Distr.: General
26 July 2002

Original: English

Letter dated 26 July 2002 from the Permanent Representative of Rwanda to the United Nations addressed to the President of the Security Council

I have the honour to forward herewith a reply of the Rwandan Government to the report of Madam Carla del Ponte to the Security Council (see annex). The reply explains to the members of the Security Council the shortcomings of the International Tribunal for Rwanda namely, inefficiency, corruption, nepotism, lack of protection of witnesses, harassment of witnesses, employing *genocidaires* as members of defence teams and investigators, mismanagement, slow pace of trials, insufficient staff and lack of competent staff, negligence and false allegations concerning the Government of Rwanda. Finally it includes a conclusion and recommendations to the Security Council.

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(*Signed*) Anastase **Gasana**
Ambassador
Permanent Representative

02-49975 (E) 310702

Annex to the letter dated 26 July 2002 from the Permanent Representative of Rwanda to the United Nations addressed to the President of the Security Council

Reply of the Government of Rwanda to the report of the Prosecutor of the International Criminal Tribunal for Rwanda to the Security Council

The report presented by the Prosecutor for International Criminal Tribunal for Rwanda to the Security Council on July 23, 2002 has come to the notice of the Government of Rwanda.

The Government of Rwanda acknowledges that the Tribunal is facing a crisis, a crisis of mismanagement, incompetence and corruption of its own making. The Government of Rwanda wishes to challenge the attempt by the Prosecutor to point to Rwanda as the cause of the crisis and not to the Tribunal itself.

In view of the false accusations and deliberate misrepresentations contained in the report, the Government of Rwanda is compelled to reply to the same as follows.

PART 1: RESPONSE TO THE SPECIFIC ALLEGATIONS OF THE PROSECUTOR.

1.1 ALLEGED INSTIGATION AND COERCION OF GENOCIDE SURVIVORS TO BOYCOTT THE ICTR.

The Prosecutor's report alleges that the Government of Rwanda is responsible for the unavailability of witnesses before the Tribunal.

The Government of Rwanda is aware that witnesses, the majority of whom are survivors of genocide, have for sometime boycotted the Tribunal. Their various grievances against the Tribunal include the slow pace of trials, the mistreatment of witnesses and the hiring of genocide suspects by the ICTR as personnel.

The Government of Rwanda considers these grievances against the ICTR legitimate and well founded. The Government of Rwanda and survivors of the genocide have raised these issues with officials of the Tribunal for over five years.

The Government of Rwanda regrets the insinuation that it has in some way instigated or coerced the genocide survivors to boycott the Tribunal. This is not only unfair but it is false. The Rwandan survivors of the genocide have since 1994 formed a number of organizations. These organizations are legal and practice independently with recognized elected leaders. These organizations function as any advocacy group would, championing the causes of their members in all ways permitted by law. As a matter of fact, the Government of Rwanda has itself frequently been a target of their criticism; when genocide suspects are acquitted or released due to their under age or old age, a terminal illness or when the Government proposed the Gacaca judicial process as an alternative to

trials before ordinary courts. The Government of Rwanda's response to the criticism has been to engage in a constructive dialogue.

Unlike the case in Yugoslavia, where the ICTY officials have engaged organizations representing witnesses, the ICTR's attitude towards genocide survivors can be described as arrogant and often times they have ignored them. Only recently have officials of the ICTR, including the Prosecutor, agreed to meet the leaders of these organizations to discuss their concerns.

The Prosecutor's argument that the Government and organizations representing genocide survivors are the one in the same has not been made in good faith. The Government of Rwanda forwarded the documents of these organizations to the ICTR to facilitate a dialogue between them and the ICTR. This facilitation was done pursuant to an express request of the Registrar during a meeting with the Registrar in March 2002 in Kigali.

In March 2002, the Government of Rwanda, represented by the Minister of Justice and the Tribunal, represented by the Registrar, reached an agreement to establish a joint commission to investigate and make recommendations on the alleged mistreatment of witnesses and the hiring of genocide suspects by the Tribunal. Unfortunately, the Registrar unilaterally withdrew the offer to set up the joint commission. The Government of Rwanda strongly contests the Prosecutor's claim that the joint commission was the Registrar's idea and the suggestion that the Government of Rwanda was somehow responsible for its abortion.

At the end of June 2002, both the Registrar and the Prosecutor of the ICTR visited Kigali and discussed with the responsible officials modalities for resolving the above-mentioned problems. The Registrar and the Prosecutor undertook to arrange without undue delay negotiations between the Government and the Tribunal to resolve outstanding issues. To date, neither the Registrar nor the Prosecutor has contacted the Government of Rwanda with regard to the proposed negotiations. Instead, the entire leadership of the Tribunal has proceeded to go on vacation before the crisis of unavailability of witnesses is addressed and resolved.

The allegation that the government of Rwanda is in any way responsible for the problem of witnesses who are unwilling to come to Arusha to testify is false.

1.2 FAILURE TO TRANSFER DETAINEES IN CUSTODY.

The allegation that the Government has not responded to the ICTR's request for the transfer of witnesses in custody is false. Recently, in the a particular case in which the Tribunal requested the transfer of detained witnesses, the Government replied in writing that the specific witnesses could not be transferred at the specified time they were required because they were expected to participate in the Gacaca courts which had just begun. The Government of Rwanda has made it clear, in person to the Prosecutor that these witnesses in custody could be made available at a subsequent date to be agreed upon mutually between the Government and the Office of the Prosecutor.

1.3 TRAVEL DOCUMENTS FOR ICTR WITNESSES.

Lately, the ICTR's campaign of misinformation has tried to lay blame for the failure of prosecution witnesses to attend hearings on alleged changes in requirements for the issue of travel documents. The Government of Rwanda wishes to set the record straight: No special requirements have been established for ICTR witnesses. Previously, ICTR witnesses were issued travel documents on the basis of a letter from the ICTR, which contained only the names of the witnesses and no other particulars. Today, ICTR witnesses are now required to produce the same documents that all other applicants for Rwanda travel documents are required to produce, namely:

1) a duly filled application form;
2) a photograph of the applicant;
3) a photocopy of the applicant's national identity card; and
4) a certificate by the Prosecutor that the applicant is not facing criminal charges in any court.

These requirements are entirely reasonable. A sovereign government cannot be expected to issue travel documents to persons whose identity has not been clearly established.

The Government has had frequent reports of deaths of witnesses in unexplained circumstances after their testimony at the ICTR. There have also been reports that ICTR personnel have secretly made out of court settlements with relatives of deceased witnesses after such deaths in order to cover the death of the witness[1]. The Government of Rwanda is gravely concerned that ICTR witnesses are being targeted. The new requirements are necessary to assist the authorities of Rwanda in ensuring the better treatment and protection of the witnesses before, during and after their testimony. The Government cannot ensure the protection of witnesses who have testified at Arusha without complete information on their identity.
The Government of Rwanda is prepared to discuss with the ICTR arrangements for the issue of travel documents acceptable to both parties.

1.4 FAILURE TO PROVIDE GOVERNMENT RECORDS.

The allegation that the Government of Rwanda has deliberately refused to provide information pertaining to government records is equally false. The Tribunal did indeed make a request for the information, but the request was made at very short notice. As everyone is aware, government buildings were looted or destroyed during the 1994 war and genocide. Many government records were destroyed or misplaced during this time. The government needs adequate time to go through available records to verify whether the information required by the Office of the Prosecutor is available. The allegation that the Government of Rwanda could be deliberately withholding information useful to the prosecution's case against any of the people whom the ICTR is trying is most absurd.

[1] An example is the recent death of a witness in the Kamuhanda Case.

1.5 ALLEGED FAILURE TO COOPERATE IN INVESTIGATIONS OF HUMAN RIGHTS VIOLATIONS BY THE RPA IN 1994.

International Criminal justice is intended to ensure that there is accountability in the absence of a state that is able and willing to bring perpetrators of human rights violations to justice. Rwanda has a functioning judicial system which is recognized by the statute of the ICTR. The national courts of Rwanda have already brought members of the RPA who committed abuses to justice and sentencing, which included capital punishment.

The Government of Rwanda does not believe that abuses committed by the RPA should be equated to the crimes committed by the perpetrators of genocide. The RPA stopped the genocide in Rwanda. It restored peace to the country. It is still defending Rwanda from the perpetrators of the genocide in the region. The Government of Rwanda believes that politically motivated pursuit of members of the RPA by the ICTR is not conducive to stability and national reconciliation in Rwanda.

The Prosecutor has confessed to the Government of Rwanda that she has to pursue indictments against the RPA because she is under pressure from some states to do so. It would appear that the proposed indictments of the RPA are merely intended to appease advocates of a so-called "ethnically balanced justice" and proponents of revisionism.

The Government of Rwanda strongly denies that it has any way interfered with the Prosecutor's investigations regarding alleged violations of Human rights by members of the RPA in 1994.

The Government of Rwanda has scrupulously respected the independence of the prosecutor of the ICTR and has not meddled in the investigations. The Prosecutor has maintained an office staffed with investigators in Rwanda since 1995. These investigators have included the so-called "special investigators team", responsible for investigating alleged violations by the RPA. The Government has issued these investigators with visas and residence permits. The members of the team have all along been known to the Government of Rwandan authorities. These investigators have had access to the entire country. They have been at liberty to undertake all investigations.

The Prosecutor has never brought to the attention of the Government of Rwanda any attempts to obstruct the work of these investigators. In these circumstances, the Government of Rwanda believes very strongly that it has fully discharged its obligations with regard to the requirements of the ICTR Statute's provisions relating to cooperation between the ICTR and States.

The ICTR has so far proved unable to handle the cases before it of persons indicted because of mismanagement and incompetence. The ICTR has yet to indict hundreds of perpetrators of genocide who are still at large across the world. The Prosecutor has scaled down the number of suspects still at large whom her office intends to indict from 250 to 130 for the remaining life of the Tribunal. In these circumstances it would be best

if the ICTR would concentrate on these cases and leave the cases of the RPA to national courts in the same way that suspected civilian perpetrators who are in custody in Rwanda have been left to national courts.

PART 2: THE FAILURES OF THE ICTR – EXTENT, CAUSES AND IMPLICATIONS

The Prosecutor's allegation that the Government of Rwanda has withdrawn cooperation from the ICTR is not only unjustified but equally unfair to Rwanda. The Government of Rwanda values the work of the Tribunal and as consistently demonstrated in its efforts to facilitate its work over the years. The ICTR owes even the modest of its success to large extent to the assistance it has received and continues to receive from the government and public at large in Rwanda. The Government of Rwanda reiterates its support for the ICTR.

However, the Government and the people of Rwanda in general have longstanding and grave misgivings on the performance of the ICTR. The ICTR is an enormous and expensive undertaking. It has an annual budget of around 100 million dollars and employs close to 1000 employees. The expectations by the people of Rwanda of the ICTR were very high upon its creation in 1994. Regrettably, the ICTR has had severe shortcomings from its inception. The Government of Rwanda has time and again drawn the attention of the successive Registrars and Prosecutors of the ICTR, as well as other officials of the United Nations, to the problems affecting the ICTR's operation. All efforts to redress the ICTR's evident shortcomings have to date been in vain. If the ICTR is to remain relevant to the people of Rwanda and achieve the goals for which it was established, it is imperative, the Government of Rwanda believes, for the United Nations Security Counsel to take urgent and far reaching remedial measures in the following areas of concern:

2.1 SLOW PACE OF TRIALS

The ICTR has been in existence for almost eight years.[2] The International Criminal Tribunal for Rwanda (ICTR) has to date handed down verdicts on only nine (9) individuals, three (3) of whom pleaded guilty. In effect, the ICTR has only conducted and concluded five (5) full trials since its establishment. These five (5) trials are the results the ICTR produced in eight years of operation with accumulated expenses of more than 800 million dollars. Many of the suspects such as Bagosora, Nsengiyumva and Kabirigi who are architects of the genocide have been awaiting trial for five or six years. There is concern that these suspects could be released on grounds that their right to trial without undue delay has been violated[3].

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[2] Established by Security Council Resolution No. 995 of 8 November 1994.

[3] Article 14(3)(c) of the ICCPR , Article 19(1) of the Statute.

The slow pace of ICTR trials has adversely affected the perception of the Tribunal both inside and outside Rwanda. These delays have also eroded the faith of many Rwandans in the will and commitment of the international community to deliver justice with respect to crimes committed during 1994.

The speed at which the ICTR operates is totally unacceptable, given the financial and human resources at its disposal.

2.2 FAILURE TO INDICT AND APPREHEND GENOCIDE SUSPECTS STILL AT LARGE

Thousands of government and military leaders were involved in planning and leading the genocide. At the end of the genocide in 1994, the planners and chief executors, both civilian and military, went to exile. The ICTR has to date indicted only around seventy (70) individuals for a genocide in which more than a million lives perished. Of those indicted, only 45 suspects have been arrested,[4] in spite of the fact that the Tribunal knows the countries in which the rest have sought to run. They include thirteen (13) indicted suspects who are waging war against Rwanda from bases in the Democratic Republic of Congo. The Prosecutor is under pressure to scale indictments so that the ICTR can conclude its work over the next couple of years. The Government of Rwanda condemns attempts to scale down investigations and indictments while the vast majority of the ringleaders of the genocide are still at large and may escape justice if the ICTR fails to bring them to justice.

2.3 MISMANAGEMENT

The principal reason why the ICTR failed to satisfactorily fulfill its mandate is mismanagement. This mismanagement has time and again been acknowledged by the United Nations[5].

Despite a budget for recruiting many essential employees, the ICTR has simply failed to hire the staff. The hiring process is often corrupted and based on nepotism and not merit. As a result, the ICTR is hiring an incredibly high number of incompetent people. This is a problem acknowledged by many within the ICTR. The Prosecutor in May 2001 dismissed seven senior attorneys, citing "professional incompetence".

Reports of crippling internal wrangles and feuds abound in all departments of the ICTR. Even efforts to find a solution to the latest problem of witnesses have floundered because the Registrar and the Prosecutor cannot agree on how a dialogue between the ICTR, the Government of Rwanda and survivors should proceed.

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[4] Amnesty international report on the ICTR: Achievements and Shortcomings

[5] See reports of Office of Internal Oversight Services.

2.4 HIRING OF PREPETRATORS OF GENOCIDE AS MEMBERS OF DEFENSE TEAMS

The Tribunal has hired and continues to hire perpetrators of genocide. As a result, the tribunal has had to indict and apprehend two of its own employees on charges of genocide and crimes against humanity. They both had served the ICTR for more than three years. Three others were dismissed after it had been established that they were key suspects of genocide and crimes against humanity. Tanzanian authorities have so far arrested two ICTR employees for carrying false identification. By the Registrar's admission, about ten other employees have since the indictment of their colleagues abandoned their jobs at the ICTR and fled because they carried false identities and they were implicated in the genocide and crimes against humanity.

2.5 TREATMENT AND PROTECTION OF WTINESSES

The ICTR has been criticized for its treatment of witnesses and failure to put in place a mechanism for protecting witnesses before, during and after their testimony. In Rwanda, ICTR investigators expose witnesses to danger by visiting them in marked cars. It has proved impossible to withhold the identity of the witnesses while at the Tribunal, especially when the defense teams, with access, are staffed with perpetrators of the genocide. The ICTR cannot appropriately protect its witnesses against this environment, which has a large presence of criminal suspects in its ranks.

Witnesses have long complained of mistreatment while in the care of the ICTR. According to a report by Amnesty International, the Victims and Witnesses Unit does not have any personnel with expertise and experience in the protection of witnesses at a national level[6]. The recent United Nations OIOS report states that the most critical deficiency in the Unit is the lack of staff with experience in witness protection in criminal trials and that "in the absence of qualified staff the ability to provide basic protection will not be available to important prosecution and defense witnesses."

The Unit has not extended any support to the knowledge of the Government of Rwanda to the victims. While the ICTR spends millions of dollars to meet medical care costs of its employees and detainees in custody, including HIV positive accused persons of whom some are charged with rape; victims who have been witnesses before the Tribunal are dying in large numbers due to the lack of medical care. The indifference of the ICTR and the United Nations to this fact is a contributing factor to the disaffection of victims towards the whole phenomenon of international justice irrespective of whether this grave mischief is a result of poor management, an indifferent mandate or improper prioritization.

The Unit of Witness and Victim Support is wholly composed of a non-Rwandan Management team. The Government of Rwanda does not believe that protection is possible in circumstances where victims feel insecure in the hands of those who are

[6] Amnesty international's report on the ICTR: Trial and Tribulations.

supposed to protect them. A conducive atmosphere in which witnesses can freely communicate with the officers in charge of their protection is necessary for witness protection. It is not proper that Rwandans in this Unit are translators, babysitters and cleaners.

Although there are reported deaths and alleged assassination attempts of former ICTR witnesses, the ICTR has not demonstrated any seriousness in attempting to improve its policy of witness protection. It has persistently rebuffed efforts of the Government to discuss appropriate witness protection and has refused to give details of the witnesses to the Government on the grounds that this endangers their security. There are reports that the ICTR personnel may be paying off relatives of witnesses who are killed to keep them silent. The Government of Rwanda is offended by these practices and insists that it must be fully involved in matters relating to protection of these witnesses, particularly after they return to Rwanda.

Witnesses have been subjected to reckless questioning to the extent of fainting in court. Judges have humiliated victims of rape in court while the witnesses recounted their ordeal. One judge in particular, has made sexist remarks during hearings and has made offensive statements to the effect that the number of victims of the genocide in 1994 has been grossly exaggerated.

Witness protection and assistance is one of the most crucial aspects of the Tribunal's functions and unless it functions effectively, the lives of witnesses will continue to be put at risk and the ICTR will be deprived of useful witness testimony which may be with held by witnesses unwilling to put their lives in danger. The facts that witnesses who as a result of rape are dying in large numbers is well known to the ICTR. Unfortunately, no policy has been put in place to address this fundamental problem and is directly linked to its mandate The ICTR has been treating its witnesses as disposable materials whose value end after their testimony.

2.6 CORRUPTION AND OTHER ABUSES

In March 2001 the UN Office of Internal Oversight Services pointed to a number of abuses, foremost among them a fee-splitting arrangement between defense lawyers and their clients. ICTR defense lawyers receive between US$80 and US$110 per hour in legal fees, and can claim up to 175 hours per month. There are now reports of fee splitting between investigators and suspects. The report, issued in February 2001, says the legal system at the ICTR continues to be abused; that almost all suspects rely on legal aid funds from the Tribunal to pay for their defense, claiming they are indigent. The report by the OIOS says some detainees at the ICTR solicit between US $2,500 to $5,000 per month from their defense teams. The report says that these detainees make such fee splitting arrangements a condition for any lawyer interested in being chosen for their defense team. These reports reveal the role of defense lawyers and ICTR employees in their capacity as accomplices and parties to corruption.

Defense lawyers, investigators and employees of the ICTR have swindled a lot of money from the ICTR through over billing. Suspects have their sons and other immediate relatives as members of their defense teams. In a situation whereby the ICTR spends a huge sum of resources to facilitate travel of witnesses, accused persons in Arusha have made use of these gaps to bring their entire family members as their witnesses. Others bring known suspects on the run and following their testimonies they are facilitated to go back to their hiding place.

Most Rwandans are incensed and extremely disappointed by the fact that resources intended to help bring to justice those responsible for the genocide are instead benefiting the criminal suspects and families There are even reports that some of these funds are ending up in the hands of terrorist groups based in the DRC. These illegal proceeds have afforded access to the best schools to children of perpetrators of genocide and crimes against humanity while the orphans in Rwanda can barely have their basic needs met. Although two lawyers have been sacked for this, none of ICTR employees has been held accountable. The ICTR is promoting impunity within its ranks, by maintaining in employ officers implicated in corruption.

2.7 GENERAL NEGLECT OF ISSUES OF JUSTICE OF INTEREST TO RWANDA.

The Government of Rwanda is appalled by the general indifference and lack of concern both within and outside the ICTR, towards the issues related to the Rwandan genocide. The Prosecutor for the ICTR is the same as for ICTY. The people of Rwanda find it extremely difficult to understand why the genocide of Rwanda, which claimed more than a million people, does not merit a separate Prosecutor and remains one person's part time job, in spite of the problems this has caused. The work involved in co-coordinating the investigation and prosecution of genocide and war crimes in Rwanda and the former Yugoslavia is enormous. The fact that the prosecutor has to oversee work in four different centers (The Hague, Arusha, Kigali and the former Yugoslavia) makes the challenge even more daunting. This is work that demands close attention and constant supervision. It requires a permanent presence in Rwanda and proximity to the current seat of the Tribunal. A single person can never effectively undertake such a task. The Office of the Chief Prosecutor should be split and an independent prosecutor be appointed to provide undivided attention to justice for the more than a million lives that were lost in the Rwanda genocide of 1994.

The ICTR Prosecutor is based at The Hague, where on a day today basis she deals only with ICTY issues and has no staff handling ICTR matters. At The Hague, the Prosecutor begins her working day with a meeting at 9 a.m. with senior officials to discuss matters relating to cases pending before the ICTY. The Prosecutor does not have any support staff or advisors at The Hague with whom she can discuss ICTR cases on day-to-day basis.

The Office of the Prosecutor of the ICTR is supposed to be based in Kigali, Rwanda but the Prosecutor visits Rwanda a few times a years for brief periods at a time.

With a Prosecutor who cannot supervise ICTR work on a day-to-day basis, the work of over-seeing ICTR should otherwise be the responsibility of the Deputy Prosecutor. It is difficult for Rwanda to understand how the United Nations system has allowed this very critical post to remain vacant for more than 14 months.

Not only has the Deputy Prosecutor's office been vacant for more than a year, but also that of the Chief of Prosecutions has been vacant for more than two years. There are, as well, a number of other critical posts for trial attorneys and staff for which the ICTR has funds but has failed to recruit.

The United Nations OIOS report concedes that the location of the office of the Chief Prosecutor, her office in Rwanda, and the chambers in three separate places hinders efficiency. The location of the chambers outside Rwanda, in particular, has led to an unfortunate development whereby the Rwandese public knows very little about its work. By making so little effort to establish a good working relationship with the people of Rwanda, the ICTR has denied itself information and support vital to its work.

When the establishment of the ICTR was under consideration by the Security Council, Rwanda indicated at the time, that it would have preferred to have the court based in Rwanda. Although the court was based at Arusha, it was agreed that some trials would at least be held in Rwanda. Eight years after its establishment, the ICTR is still dragging its feet about holding trials in Rwanda.

The Prosecutor has, contrary to the decision of the Security Council, essentially moved even the Office of the Prosecutor, which was supposed to be based in Rwanda to Arusha, leaving only a skeletal presence in Rwanda. Prosecution attorneys at the appellate level of the ICTR are all based at The Hague. It should be noted clearly that although the ICTR and the ICTY share the same appeals Chamber, they do not share Prosecution Attorneys at this level. This arrangement does not meet any reasonable objective other than misuse of resources especially because appeals hearings are normally conducted in Arusha.

The United Nation detention facility in Arusha has become another political platform from which the ideology of genocide can be spread. Until last year, by the ICTR's admission, one of the detainees clandestinely operated a website from within the detention facility. Furthermore, at least one other detainee is still able to send threatening e-mail messages to witnesses and victims in Rwanda. Failure to put in place proper management of the Detention facility remains a matter of very grave concern.

PART 3: CONCLUSION

The ICTR is at a crossroads. Its credibility in Rwanda is at stake. The United Nations must address the problems the ICTR faces or risk having a tribunal whose legacy will bring shame rather than honor to those who have had the privilege of serving or managing it. In the light of the foregoing the Government of Rwanda recommends to the Security Council that:

a) The Security Council amend the Statute of the ICTR to create an Office of the Prosecutor of the ICTR separate and distinct from the Office of the Prosecutor of the ICTY.
b) All critical posts, which have been vacant for a long time, including the Deputy Prosecutor (if a separate Prosecutor is not appointed for the Rwanda Tribunal) be filled with immediate effect.
c) Appropriate mechanisms be put in place to check corruption, nepotism and the hiring of genocide suspects by the ICTR.
d) The Office of the Prosecutor, which has clandestinely been shifted from Kigali to Arusha, be returned to Kigali.
e) A plan be devised to transfer the ICTR to Rwanda and that pending such a transfer, some of the trials should be conducted in Rwanda.
f) Measures be taken to put in place mechanisms for the better treatment and protection of ICTR witnesses.
g) The ICTR undertake dialogue with the Government of Rwanda and genocide survivors with the view to finding a solution to the problems facing the Tribunal.
h) The Security Council requests the Secretary-General to establish a commission of inquiry to investigate matters raised by the Government of Rwanda in this response to the report by the Prosecutor of the ICTR to the Council.

26 July 2002

United Nations S/2002/843

Security Council

Distr.: General
29 July 2002
English
Original: Arabic

Letter dated 26 July 2002 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the President of the Security Council

Please find attached the assessment of the work of the Security Council during the presidency of the Syrian Arab Republic in June 2002 (see annex).

I should be grateful if you would arrange to have this letter and the attached assessment circulated as a document of the Security Council.

(*Signed*) Mikhail **Wehbe**
Ambassador
Permanent Representative

02-50337 (E) 020802

Annex to the letter dated 26 July 2002 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the President of the Security Council

Assessment of the work of the Security Council during the presidency of the Syrian Arab Republic (June 2002)

During the Syrian Arab Republic's presidency of the Security Council in June, the Council held seven formal meetings, six public meetings, two private meetings and three meetings with troop-contributing countries. Its members met on 19 occasions for consultations.

In June, the Council adopted five resolutions and issued one presidential statement, and the President was authorized on seven occasions to make statements to the press on behalf of Council members.

The Deputy Prime Minister and Minister for Foreign Affairs of the Syrian Arab Republic, Farouk Al-Shara', presided over a private meeting held by the Council to consider the situation in the Middle East and a public meeting on the situation in Afghanistan.

Africa

Burundi

At the consultations on 24 June, the Assistant Secretary-General for Political Affairs, Tuliameni Kalomoh, briefed the members of the Council on Burundi, stressing the need to urge all the parties to stop the fighting and give the facilitators a chance to pursue their efforts to achieve a ceasefire. Following the consultations, the President made a statement to the press in which he repeated that the members of the Security Council encouraged the facilitation, the United Republic of Tanzania and the region to continue efforts aimed at helping the belligerents to reach a ceasefire agreement; urged the armed groups to cooperate with regional efforts; expressed appreciation to South Africa for providing the protecting unit for exiled leaders; reminded the parties of their obligations under international humanitarian law to condemn and end all attacks against all civilians; encouraged the Government to pursue constructive dialogue within the transitional institutions; and urged donors to provide immediate humanitarian and development assistance to Burundi.

Democratic Republic of the Congo

In consultations on 4 June Council members wer briefed by the Under-Secretary-General fo Peacekeeping Operations, Jean-Marie Guéhenno, o the incidents in Kisangani in which staff of the Unite Nations Organization Mission in the Democrati Republic of the Congo (MONUC) had been assaulte by members of the Rassemblement congolais pour l démocratie (RCD-Goma), as well as RCD Goma' expulsion of MONUC from RCD Goma-controlle territory, and its ban on the Special Representative o the Secretary-General.

The Council held a public meeting on 5 June a which it adopted a presidential statement in whic members of the Council condemned the acts o intimidation and unfounded public statements agains MONUC, in particular attempts by RCD-Goma t "ban" the Special Representative of the Secretary General and the "expulsion" of several MONU personnel. The members of the Council stressed tha those unjustifiable attacks were directly contrary to th process of peace and national reconciliation. The reiterated their condemnation of the killings an attacks against civilians that followed the events of 1 May in Kisangani. The Council held RCD-Gom responsible for bringing an end to all extrajudicia executions, human rights violations and arbitrar harassment of civilians. The Council demanded tha RCD-Goma immediately cease its harassment o United Nations officials and assist with the deploymer and operations of MONUC, cooperate with al investigations of violence in Kisangani, and compl with all relevant resolutions of the Security Council, i particular by demilitarizing Kisangani. The Counc called upon Rwanda to use its influence to have RCD Goma meet without delay all its obligations under th resolutions of the Security Council and the statement o its President.

On 11 June Council members held a privat meeting with the MONUC troop-contributin countries. The Council and the troop-contributin

countries were briefed by the Special Representative of the Secretary-General for the Democratic Republic of the Congo and head of MONUC, Amos Namanga Ngongi. The members of the Council had a constructive exchange of views with the representatives of troop-contributing countries participating in the meeting.

On 12 June Council members held consultations that were attended by the Under-Secretary-General for Peacekeeping Operations and the Special Representative of the Secretary-General. Council members were briefed by the Special Representative on the latest developments. The Council discussed a draft resolution on the extension of the mandate of MONUC until 30 June 2003.

On 14 June the Council held a formal meeting at which it adopted resolution 1417 (2002), by which it decided to extend the mandate of MONUC until 30 June 2003.

Sierra Leone

The members of the Council held consultations on 13 June, at which they heard a presentation by the Deputy Special Representative of the Secretary-General in Sierra Leone, Alan Doss, on the situation following the elections.

During the consultations members of the Council expressed their satisfaction at the success of the election process in Sierra Leone. They stated that they were looking forward to the Secretary-General's fourteenth interim report, which would review the challenges of the next stage and would contain recommendations on the role to be assumed by the United Nations Mission in Sierra Leone.

Somalia

At the consultations on 18 June the Council members were briefed by the Deputy Emergency Relief Coordinator, Carolyn McAskie, on the humanitarian situation in Somalia, which she had just visited. The members of the Council held wide-ranging discussions on the question of Somalia. Following the discussions the President issued a statement to the press in which members of the Council expressed their deep concern about the humanitarian situation in Somalia, including in the northern parts of the Gedo region where successive waves of fighting had caused outflows of refugees and large numbers of casualties. Members of the Council expressed concern at the situation of the refugees along the borders with neighbouring countries and urged those countries to live up to their international obligations to move refugees away from border areas. Members of the Council underlined the interlinkages between the humanitarian situation and the efforts for peace in Somalia and condemned the renewed violence that was undermining the peace process in the country. Members of the Council expressed deep concern about the continuing and destabilizing flow of weapons and ammunition supplies to Somalia from other countries and expressed their determination to generate independent information on violations of the arms embargo established by resolution 733 (1992).

Western Sahara

As agreed by member States, Council members met at the expert level on 13 June with representatives of the Department of Peacekeeping Operations and the Department of Political Affairs of the United Nations Secretariat.

The representatives of the two Departments presented a commentary on developments in the situation in Western Sahara and the tasks of the United Nations Mission for the Referendum in Western Sahara, and they responded to the observations and questions of the representatives of the members of the Council. It is useful to point out that the experts from member States focused in their interventions on the options described in the Secretary-General's report of 19 February 2002 (S/2002/178) on the situation concerning Western Sahara.

Asia

Afghanistan

At its informal consultations on 7 June the Council heard a briefing by the Under-Secretary-General for Political Affairs, Kieran Prendergast, that focused on the arrangements being made to convene the Loya Jirga, the significance of this event, the results it would have and the efforts being made by the United Nations Assistance Mission in Afghanistan for the convening of the meeting. The Under-Secretary-General also reviewed the security situation and the challenges of the reconstruction and development process. Following the consultations, the President

issued a press statement in which members of the Council welcomed the arrangements being made to convene the Emergency Loya Jirga, congratulated the Loya Jirga Commission on its preparation and organization of the gathering, commended the role played by the Afghan Interim Administration, and called on the Afghan people and their leaders across the country to work together within the framework of the Bonn Agreement to build democratic institutions and to prepare in due course for national elections. Members of the Council shared the concern expressed by the Under-Secretary-General in his briefing about the shortfall in funding for the election process, the meetings of the Loya Jirga, the urgent humanitarian situation and the formation of the Afghan national army, and they appealed to the international community to contribute urgently to making up the shortfall.

On 21 June the Deputy Prime Minister and Minister for Foreign Affairs of the Syrian Arab Republic, Farouk Al-Shara', presided over a public meeting held to hear a briefing by the Under-Secretary-General on the situation in Afghanistan, in which he focused on the results of the Emergency Loya Jirga. The Under-Secretary-General counted the meeting of the Loya Jirga a success, owing to the fact that it had been held at all, because it had accomplished what it had been mandated to accomplish under the Bonn Agreement and because Afghans had been able to gather together peacefully, to debate and ultimately to agree on fundamental questions regarding their common political future. The Under-Secretary-General also addressed security and humanitarian issues and the reconstruction and development process.

Following the public meeting, the members of the Council held consultations. The President then delivered a statement to the press in which members of the Council welcomed the successful conclusion of the Loya Jirga and the inauguration of President Hamed Karzai as Head of the new Transitional Administration. Members of the Council paid warm tribute to the Afghan people and their leaders for such a large and peaceful gathering so soon after the Interim Administration took office and to the efforts of the International Security Assistance Force (ISAF) in helping to ensure a secure environment in which the Loya Jirga could be held. They looked forward to a formal Council response very soon.

At a public meeting held on 26 June the Council adopted resolution 1419 (2002), in which it welcomed the successful holding of the Emergency Loya Jirga, the wide participation in it, the election of the Head of State and the establishment of the Transitional Authority. It reiterated its strong support for the Transitional Authority in the full implementation of the Bonn Agreement, commended the role of the United Nations system and the contribution of ISAF, and called upon donor countries that had pledged financial aid at the Tokyo conference to fulfil their commitments promptly.

Iraq

On 6 June Council members held a meeting with the Executive Chairman of the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC), Hans Blix, who introduced his ninth quarterly report under paragraph 12 of resolution 1284 (1999) (S/2002/606) and described the tasks carried out by the Commission in recent months. Members of the Council stressed the need for UNMOVIC to continue to train inspectors for their tasks. A number of speakers expressed confidence that UNMOVIC would complete the tasks assigned to it by resolution 1409 (2002). Delegations reaffirmed their well-known positions with respect to resolution 1284 (1999) and their understanding of it.

At consultations held on 19 June Council members discussed the situation between Iraq and Kuwait. The high-level Coordinator, Yuli M. Vorontsov, introduced the report of the Secretary-General on the item (S/2002/664). He stated that the Governments of Iraq and Kuwait had agreed to reactivate the mechanism employed in 1991 for the return of Kuwaiti property and archives, and he stressed the anticipated role of the League of Arab States in addressing the matter. The members of the Council who made statements welcomed the Secretary-General's report and supported the reactivation of the mechanism adopted in 1991. As a result of the discussions, the members of the Council agreed to issue a statement to the press that was delivered by the President of the Council, in which it was stated that members of the Council took note of Iraq's readiness to return Kuwait's national archives through a United Nations mechanism that would include the League of Arab States. Members of the Council expressed their support for the work of the high-level Coordinator and stressed the importance of dialogue between Ambassador Vorontsov and the Government of Iraq.

They also welcomed the recommendations in this regard contained in the communiqué of the Beirut Arab Summit. Members of the Council agreed with the Secretary-General's observations that the complete return of all Kuwaiti property would lead to this humanitarian issue being brought to closure. They strongly urged the Government of Iraq to make further efforts regarding all remaining Kuwaiti property in its possession.

At the consultations of 24 June the Chairman of the Security Council Committee established by resolution 661 (1990), Ambassador Ole Peter Kolby, spoke about the need to address the question of the financial crisis facing the oil-for-food programme. A number of representatives of member States made statements, stressing the need to address this question and proposing to continue the meetings of experts to discuss the best way to overcome existing obstacles. One delegation indicated that it was preparing a paper on the pricing of Iraqi oil and suggested that members of the Council should study it carefully and submit their proposals to the experts of the Committee at a meeting to be held later.

The situation in the Middle East, including the Palestinian question

On 6 June the members of the Council held consultations in which they discussed ongoing developments in the Middle East in response to the request of the Permanent Observer of Palestine that it consider the tense situation in the occupied Palestinian territories. Members of the Council stressed the need for compliance with the relevant Security Council resolutions and for action to achieve a just and comprehensive peace in the region.

On 13 June the Council held a public meeting on the situation in the Middle East in response to a letter from the Permanent Representative of Bahrain to the United Nations requesting, on behalf of the Arab Group, that an immediate meeting be convened to consider the grave and deteriorating situation in the occupied Palestinian territories, including Jerusalem. Thirty-five speakers participated in the meeting, including the 15 members of the Security Council. In their statements, representatives expressed concern at the deteriorating situation in the region, stressed the need for international efforts to focus on devising a political solution in order to reach a peaceful settlement, and called upon the Security Council to meet its responsibility to achieve a just and comprehensive peace in the Middle East in accordance with the relevant resolutions.

On 20 June the Council held a private meeting under the presidency of the Deputy Prime Minister and Minister for Foreign Affairs of the Syrian Arab Republic. At the commencement of the meeting the Secretary-General gave a briefing in which he stated that the situation in the Middle East was dangerously unstable and that the political, security and economic dimensions of the problem were today much worse than they had been at any time since 1967. The Secretary-General then identified what he called the basic issues that formed the core of the conflict in the Middle East.

In his briefing, the Secretary-General pointed out the need to achieve a just, lasting and comprehensive peace on all tracks of the peace process in the Middle East, that such a peace must be based on the land-for-peace formula, and that this required progress to be made on the Syrian and Lebanese tracks as well as the Israeli-Palestinian track. The text of the Secretary-General's briefing was circulated.

Speaking in his capacity as the representative of the Syrian Arab Republic, the Minister referred to the preoccupation of the Security Council with addressing the situation in the Middle East and his country's understanding of the Council's importance and the tasks entrusted to it under the Charter of the United Nations. He then reviewed the history of developments and events in the region and the reasons why international efforts to achieve a just and comprehensive peace in the region had failed.

Mr. Al-Shara' stated that it had been Syria's acceptance of the United States initiative launched by the administration of President George Bush in 1991 that had made it possible for the Madrid peace conference to be convened in November that year. He then spoke of the Arab peace initiative endorsed by the Beirut Summit, which had received widespread international support and had been welcomed by the United States of America, the European Union and the Russian Federation. The Quartet in its joint statement of 10 April 2002 (S/2002/369) had also welcomed it as "a significant contribution towards a comprehensive peace, including Syria and Lebanon".

Mr. Al-Shara' concluded by affirming the need to achieve a comprehensive peace that would bring security and stability to all parties.

At the request of one of the members and with the agreement of the Council, the full text of the Minister's statement was circulated as a Security Council document.

Members of the Security Council welcomed the fact that Mr. Al-Shara' had presided at the private meeting, and they affirmed that the presentation he had given of Syria's position with respect to all aspects of the situation in the Middle East had been useful. They also expressed satisfaction with the Secretary-General's briefing. In their statements, all members of the Council reviewed all aspects of the dangerous situation in the region and the positions of their countries in its regard. The Minister responded to their observations and questions.

Europe and the Balkans

Cyprus

On 5 June the Council held a private meeting with the countries contributing troops to the United Nations Peacekeeping Force in Cyprus (UNFICYP). The Security Council and the troop-contributing countries heard a briefing by the Director of the Europe and Latin America Division of the Department of Peacekeeping Operations.

On 11 June the Security Council held consultations at which it heard a briefing by the Acting Special Representative of the Secretary-General and Chief of the United Nations Mission in Cyprus, Zbigniew Wlosowicz. Members called upon the parties concerned to make further efforts to achieve the goal of resolving the Cyprus issue. The delegation of the United Kingdom introduced a draft resolution on the extension of the mandate of UNFICYP.

The President of the Security Council met with the four parties involved in the dispute in Cyprus on 11 June and delivered the draft resolution to them. He heard their comments on the draft resolution and their concerns in this regard, and he transmitted them to the Council at its consultations on the following day.

On 13 June the Council held a formal meeting at which it considered the draft resolution on the extension of the mandate of UNFICYP for a further period ending 15 December 2002. It adopted the draft resolution by consensus (15 votes in favour) as resolution 1416 (2002).

Kosovo, Federal Republic of Yugoslavia

The Security Council held a public meeting on 26 June on Kosovo, Federal Republic of Yugoslavia, at which the Under-Secretary-General for Peacekeeping Operations gave a briefing on the latest developments in the situation there. He spoke of the establishment of inclusive provisional institutions of self-government in Kosovo. He indicated that the United Nations Interim Administration Mission in Kosovo (UNMIK) had continued to work with the provisional institutions of self-government to ensure that those bodies respected the division between reserved and transferred responsibilities. He stated that the Special Representative of the Secretary-General and Head of UNMIK, Michael Steiner, had issued guidelines for agreements of the provisional institutions of self-government with Governments and with international organizations.

Members of the Council expressed satisfaction with the additional steps and measures taken by UNMIK to enhance the rule of law, prevent smuggling and combat organized and transnational crime. They stated that they looked forward to the municipal elections to be held in Kosovo in October 2002, which would have a positive impact on political, economic and social life there and would enhance the representation of all factions, ethnic groups and minorities.

Bosnia and Herzegovina

On 13 June the Council held a private meeting with countries contributing troops to the United Nations Mission in Bosnia and Herzegovina (UNMIBH). The Council and the troop-contributing countries heard a briefing by the Assistant Secretary-General for Peacekeeping Operations, Hédi Annabi.

On 19 June, at the request of a Member of the United Nations, the Security Council held a public meeting to consider the situation in Bosnia and Herzegovina. The Council heard a briefing by the Special Representative of the Secretary-General and Coordinator of United Nations Operations in Bosnia and Herzegovina, Jacques Paul Klein, on the latest developments in the situation in Bosnia and

Herzegovina. He stated that UNMIBH was continuing to make great progress in the implementation of its mandate. UNMIBH was on the point of successfully completing its core mandate even as Bosnia and Herzegovina continued to require the support and attention of the international community. He said that peace alone did not suffice in Bosnia and Herzegovina, and serious problems were appearing — in particular with regard to criminality and corruption — which posed fundamental challenges to the country's ability to develop and to the maintenance of its stability.

The Council adjourned for consultations so as to complete its deliberations. Bulgaria introduced a draft resolution on the extension of the mandate of UNMIBH until 15 December 2002.

In view of the fact that there was no consensus on the relationship between peacekeeping operations and the role of the International Criminal Court and given that the mandate of UNMIBH was to expire on 21 June 2002, the Council adopted at a formal meeting held on 21 June a technical resolution extending the mandate of the Mission until 30 June 2002 (resolution 1418 (2002)).

When it became clear that it would be difficult to reach an agreement at this point of the discussions, the members of the Council held consultations on 27 June, twice on 28 June and once again on 30 June in an attempt to devise a consensus solution. The outcome of the consultations was that the members of the Council agreed to vote on the draft resolution introduced by Bulgaria.

The Council held a formal meeting on 30 June at which the draft resolution in question was put to a vote. The Council did not, however, adopt the draft resolution owing to the negative vote of a permanent member. This meeting was attended by the Secretary-General, and he delivered a statement after the vote in which he stressed the importance of peacekeeping operations and appealed to member States to continue consultations at the highest levels and in capitals in order to reach agreement on this matter.

Directly following the formal meeting at which the vote was taken, the members of the Council held consultations in order to continue consideration of what steps should be taken to extend the mandate of UNMIBH, due to expire on 30 June 2002. On completion of these consultations the Council held a formal meeting at which it adopted resolution 1420 (2002) extending the mandate of the Mission until 3 July 2002.

Counter-terrorism

On 27 June the Council held a public meeting at which it heard a briefing by the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism, Jeremy Greenstock, on the work of the Committee over the past nine months and on its work programme for the fourth 90-day period. Ambassador Greenstock stated that the Committee would focus in the coming period on reviewing the further implementation by States of resolution 1373 (2001) and on considering the second, supplementary reports submitted by States on the basis of the questions addressed to them by the Committee's experts. He stated that the Committee would be in close contact with potential providers of assistance in the fields covered by the resolution and expressed gratitude for the practical support the Committee was receiving from the Secretariat in the translation of documentation and the provision of services for meetings.

Members of the Security Council spoke, as did some of the chairmen of the regional groupings, namely the representative of Spain (on behalf of the European Union), the representative of Costa Rica (on behalf of the Rio Group countries), and the representative of Brunei Darussalam (on behalf of the ASEAN countries). All speakers expressed appreciation for the work of the Committee and what it had achieved in the time that had elapsed. They stressed that it was important for countries that had not yet submitted their reports to do so as quickly as possible. Some delegations encouraged dialogue with international and regional organizations. A number of speakers stressed the need for respect for human rights and for compliance with international law and the Charter of the United Nations in taking any measures to combat terrorism, and delegations urged the Committee to assist States needing aid in specific fields in their efforts to implement resolution 1373 (2001).

Working group on documentation and procedures

The informal working group on documentation and procedures held a meeting on 20 June at which it discussed ongoing preparations for the convening of a wrap-up session of the Council and the paper prepared by the President on the form and substance of such a session. The results of the meeting were contained in the note verbale of 25 June 2002 (S/2002/701), which established the manner in which the session should be conducted and the time to be allocated to participating countries for their comments. It stipulated that statements should analyse the manner in which the Council had addressed the matters on its agenda and that interventions should not be restatements by those countries of their positions on the matters in question. The note identified four topics for special focus, namely, the situation in Afghanistan, the situation in the Democratic Republic of the Congo, the situation in the Middle East, and the situation in Somalia. The document prepared by the President of the Council for the month of June on the proceedings of the wrap-up session held on 28 June 2002 was circulated in document S/2002/759 of 16 July 2002.

United Nations S/2002/844

Security Council

Distr.: General
30 July 2002

Original: English

Letter dated 25 July 2002 from the Chargé d'affaires a.i. of the Permanent Mission of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith an account of violations by Iraq of the terms of the ceasefire between the two countries from 2 July until 5 December 2001 (see annex).

I should be grateful if the present letter and its annex would be circulated as a document of the Security Council.

(*Signed*) Mohammad Hassan **Fadaifard**
Ambassador
Chargé d'affaires, a.i.

02-50189 (E) 010802

Annex to the letter dated 25 July 2002 from the Chargé d'affaires a.i. of the Permanent Mission of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General

A) CEASE FIRE VIOLATIONS

1. On 17 October 2001 at 1230 hours, an Iraqi gray painted patrol boat carrying two persons was spotted patrolling in the waters of the I.R. of Iran at (39RTP, 33500-58000) coordinates of Khoramshahr map.

2. On 15 October 2001 at 0800 and 1230 hours, an Iraqi cream painted patrol boat carrying three persons was spotted patrolling in the waters of the I.R. of Iran at (39RTP/TN, 68500-14500) coordinates of Nahr Alishir map.

3. On 20 October 2001 at 1105 hours, seven persons from Iraqi forces were spotted at work and setting up a camera on a tripod at (39RTQ/TP 15000-03000) coordinates of Navad map.

4. On 23 October 2001 at 1130 and 1620 hours, an Iraqi cream painted patrol boat carrying four persons was spotted patrolling in the waters of the I.R. of Iran at (39RTP/TN, 68500-14500) coordinates of Nahr Alishir map.

5. On 10 October 2001 at 2145 hours the Iraqi forces fired four mortar shells at the Iranian forces stationed at (38SPA/PB 81000-23000) coordinates of Chai Gharah Tapeh map.

6. On 5 November 2001 at 1030 hours, an Iraqi cream painted patrol boat carrying three persons was spotted patrolling in the waters of the I.R. of Iran at (39RTP/TN, 68500-14500) coordinates of Nahr Alishir map.

7. On 5 November 2001 at 1235 hours, an Iraqi cream painted patrol boat carrying two persons was spotted patrolling in the waters of the I.R. of Iran at (39RTP/TN, 59000-18200) coordinates of Nahr Alishir map.

8. On 5 November 2001 at 1315 hours, an Iraqi gray painted patrol boat carrying two persons was spotted patrolling in the waters of the I.R. of Iran at (39RTP, 56000-20500) coordinates of Faw map.

9. On 6 November 2001 at 1030 hours, an Iraqi blue painted patrol boat carrying two persons was spotted patrolling in the waters of the I.R. of Iran at (39RTP, 41300-55200) coordinates of Abadan map.

10. On 8 November 2001, at 1015 hours, two Iraqi patrol boats each carrying two persons were spotted patrolling in the waters of the I.R. of Iran at (39RTP, 56000-20500) coordinates of Faw map.

11. On 3 November 2001 at 1130 hours, 20 persons from Iraqi forces were spotted involved in setting up three group tents at (38S/NC/ND 39000-12000) coordinates of Kosravi map.

12. On 7 November 2001 at 1200 hours, 5 persons from Iraqi forces were spotted involved in setting up an anti-aircraft cannon at (38S/NC/ND 38000-11000) coordinates of Kosravi map.

13. On 4 November 2001 at 1200 hours, an Iraqi cream painted patrol boat carrying three persons was spotted patrolling in the waters of the I.R. of Iran at (39RTP, 41300-55300) coordinates of Abadan map.

14. On 13 November 2001 at 0955 hours, an Iraqi green painted patrol boat carrying two persons was spotted patrolling in the waters of the I.R. of Iran at (39RTP/TN, 58800-18200) coordinates of Nahr Alishir map.

15. On 10 November 2001 at 0900 hours, an Iraqi green painted patrol boat carrying two persons was spotted patrolling in the waters of the I.R. of Iran at (39RTP, 46200-48700) coordinates of Khosro Abad map.

16. On 12 November 2001 at 1650 hours, an Iraqi cream painted patrol boat carrying three persons was spotted patrolling in the waters of the I.R. of Iran at (39RTP/TN, 68500-14500) coordinates of Nahr Alishir map.

17. On 29 September 2001 at 0920 hours, an Iraqi patrol boat carrying two Iraqi officers was spotted patrolling in the waters of the I.R. of Iran at (39RTP, 38100-59000) coordinates of Abadan map.

18. On 4 May 2001 at 1215 hours, an Iraqi helicopter was spotted flying at (39RTP, 39000-57000) coordinates of Abadan map.

19. On 27 April 2001 at 0930 hours, three Iraqi military men were spotted digging trench at (39RTP, 29000-62000) coordinates of Khoramshah map.

20. On 2 July 2001 at 0920 hours, an Iraqi vehicle carrying one man and three women, one of whom was filming the area, was spotted at (39RTP, 36000-59000) coordinates of Abadan map.

21. On 22 November 2001 at 0830 hours, a loader and a Jeep carrying five persons were spotted at work at (38S/NC/ND, 36000-11000) coordinates of Khosravi map.

22. On 25 November 2001 at 1720 hours, an Iraqi cream painted patrol boat carrying three persons was spotted patrolling in the waters of the I.R. of Iran at (39RTP/TN, 68500-14500) coordinates of Nahr Alishir map.

23. On 26 November 2001 at 1550 hours, an Iraqi cream painted patrol boat carrying two persons was spotted patrolling in the waters of the I.R. of Iran at (39RTP, 55000-21000) coordinates of Faw map.

24. On 27 November 2001 at 1100 hours, an Iraqi gray painted patrol boat carrying two persons was spotted patrolling in the waters of the I.R. of Iran at (39RTP, 33500-58000) coordinates of Khoramshahr map.

25. On 2 December 2001 at 1615 hours, an Iraqi patrol boat carrying two persons was spotted patrolling in the waters of the I.R. of Iran at (39RTP, 46000-48800) coordinates of Khosro Abad map.

26. On 3 December 2001 at 1025 hours, an Iraqi cream painted patrol boat carrying two persons was spotted patrolling in the waters of the I.R. of Iran at (39RTP, 56000-20300) coordinates of Faw map.

27. On 3 December 2001 at 1630 hours, an Iraqi green painted patrol boat carrying three persons was spotted patrolling in the waters of the I.R. of Iran at (39RTP/TN, 68500-14500) coordinates of Nahr Alishir map.

28. On 4 December 2001 at 1300 hours, an Iraqi green painted patrol boat carrying three persons was spotted patrolling in the waters of the I.R. of Iran at (39RTP/TN, 68500-14500) coordinates of Nahr Alishir map.

29. On 4 December 2001 at 1445 hours, an Iraqi patrol boat carrying two persons was spotted patrolling in the waters of the I.R. of Iran at (39RTP, 56000-20300) coordinates of Faw map.

30. On 5 December 2001 at 0935 hours, an Iraqi cream painted patrol boat carrying one person was spotted patrolling in the waters of the I.R. of Iran at (39RTP, 46000-48800) coordinates of Khosro Abad map.

B) BORDER EVENTS

1. On 4 December 2001 at 0500 hours, the Iranian forces arrested two Iraqi civilians named Nafe' Zeidi (B.SC of Natural Sciences from Mousel University) and Basem Zeidi (associate of arts) because of illegal entry into the territory of the I.R. of Iran at (38S/PA/QA, 05000-95000) coordinates of Maimeh map. Two I.D. cards, one notebook and 44500 Iraqi Dinars were discovered and seized from them.

2. On 30 October 2001 at 1130 hours, the Iranian forces arrested an Iraqi civilian named Dawood Solaiman Masoud, 61, from Mandali residing in Khaneghin who had illegally entered the territory of the I.R. of Iran at (40000-58000) coordinates of South Naftshahr map.

3. On 24 October 2001 at 2100 hours, the Iranian forces arrested an Iraqi 29 years old civilian who had illegally entered the territory of the I.R. of Iran at (38S/QA, 32000-85000) coordinates of Nahre Anbar map.

4. On 7 November 2001 at 2310 hours, the Iranian forces arrested one of the Iraqi mercenaries named Ali Reza Bertoon, son of Hossain who tried to enter the territory of the I.R. of Iran with a boat at (39RTP, 45200-50400) coordinates of Abadan map.

5. On 20 July 2001, a team of Iraqi mercenaries tried to enter the territory of the I.R. of Iran at (39RTP, 15500-77000) coordinates of Khoramshahr map. Faced with the Iranian forces, they fled back into the Iraqi territory.

6. On 28 May 2001, a team of Iraqi mercenaries tried to infiltrate the territory of the I.R. of Iran at (39RTQ/TP, 15500-83000) coordinates of Navad map. In the clashes with the Iranian forces, two of them named Abbasali Khodaie and Ali Abbas Saleh were arrested and handed over to the relevant authorities.

7. On 11 April 2001, a team of Iraqi mercenaries tried to infiltrate into the territory of the I.R. of Iran at (39RTQ/TP, 15500-85000) coordinates of Navad map. During the clashes with the Iranian forces one of them was shot dead.

8. On 29 November 2001 at 1930 hours, six illegal trespassers tried to build a passage to infiltrate into the territory of the I.R. of Iran at (38SND, 47000-23500) coordinates of Ghasre Shirin map. Faced with the reaction of the Iranian forces, they fled back into the Iraqi territory.

United Nations S/2002/845

Security Council

Distr.: General
29 July 2002
English
Original: English and French

Draft resolution

The Security Council,

Recalling all its relevant resolutions, in particular resolution 1393 (2002) of 31 January 2002,

Having considered the report of the Secretary-General of 10 July 2002 (S/2002/742),

Recalling the conclusions of the Lisbon (S/1997/57, annex) and Istanbul summits of the Organization for Security and Cooperation in Europe (OSCE) regarding the situation in Abkhazia, Georgia,

Recalling the relevant principles contained in the Convention on the Safety of United Nations and Associated Personnel adopted on 9 December 1994,

Recalling its condemnation of the shooting down of a helicopter of the United Nations Observer Mission in Georgia (UNOMIG) on 8 October 2001, which resulted in the death of the nine people on board, and *deploring* the fact that the perpetrators of that attack have still not been identified,

Stressing that the continued lack of progress on key issues of a comprehensive settlement of the conflict in Abkhazia, Georgia, is unacceptable,

Welcoming the important contributions made by UNOMIG and the Collective Peacekeeping Forces of the Commonwealth of Independent States (CIS peacekeeping force) in stabilizing the situation in the zone of conflict, and *stressing* its attachment to the close cooperation existing between them in the performance of their respective mandates,

Welcoming also the agreement on the extension of the mandate of the CIS peacekeeping force for a new period terminating on 31 December 2002,

1. *Welcomes* the report of the Secretary-General of 10 July 2002 (S/2002/742);

2. *Commends and strongly supports* the sustained efforts of the Secretary-General and his Special Representative, with the assistance of the Russian Federation in its capacity as facilitator as well as of the Group of Friends of the Secretary-General and of the OSCE, to promote the stabilization of the situation and the achievement of a comprehensive political settlement, which must include a settlement of the political status of Abkhazia within the State of Georgia;

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3. *Recalls*, in particular, its support for the document on "Basic Principles for the Distribution of Competences between Tbilisi and Sukhumi" and for its letter of transmittal, finalized by, and with the full support of, all members of the Group of Friends;

4. *Regrets* the lack of progress on the initiation of political status negotiations, and *recalls*, once again, that the purpose of these documents is to facilitate meaningful negotiations between the parties, under the leadership of the United Nations, on the status of Abkhazia within the State of Georgia, and is not an attempt to impose or dictate any specific solution to the parties;

5. *Underlines further* that the process of negotiation leading to a lasting political settlement acceptable to both sides will require concessions from both sides;

6. *Deeply regrets*, in particular, the repeated refusal of the Abkhaz side to agree to a discussion on the substance of this document, again *strongly urges* the Abkhaz side to receive the document and its transmittal letter, *urges* both parties thereafter to give them full and open consideration, and to engage in constructive negotiations on their substance, and *urges* those having influence with the parties to promote this outcome;

7. *Calls on* the parties to spare no efforts to overcome their ongoing mutual mistrust;

8. *Condemns* any violations of the provisions of the Moscow Agreement of 14 May 1994 on a Ceasefire and Separation of Forces (S/1994/583, annex I), and *demands* that they cease immediately;

9. *Welcomes* the decrease of tensions in the Kodori Valley and the intention reaffirmed by the parties to resolve the situation peacefully, *recalls* its strong support to the protocol signed by the two sides on 2 April 2002 regarding the situation in the Kodori Valley, *calls on* both sides, and in particular the Georgian side, to continue to fully implement this protocol, and *recognizes* the legitimate security concerns of the civilian populations in the area, *calls* on the political leaders in Tbilisi and Sukhumi to observe security agreements, and *calls* on both sides to spare no efforts to agree a mutually acceptable arrangement for security of the population in, and in the vicinity of, the Kodori Valley;

10. *Calls on* the Georgian side to continue to improve security for joint UNOMIG and CIS peacekeeping force patrols in the Kodori Valley to enable them to monitor the situation independently and regularly;

11. *Strongly urges* the parties to ensure the necessary revitalization of the peace process in all its major aspects, to resume their work in the Coordinating Council and its relevant mechanisms, to build on the results of the Yalta meeting on confidence-building measures in March 2001 (S/2001/242), and to implement the proposals agreed on that occasion in a purposeful and cooperative manner;

12. *Stresses* the urgent need for progress on the question of the refugees and internally displaced persons, *calls on* both sides to display a genuine commitment to make returns the focus of special attention and to undertake this task in close coordination with UNOMIG, *reaffirms* the unacceptability of the demographic changes resulting from the conflict, *reaffirms* also the inalienable right of all refugees and internally displaced persons affected by the conflict to return to their

homes in secure and dignified conditions, in accordance with international law and as set out in the Quadripartite Agreement of 4 April 1994 (S/1994/397, annex II) and the Yalta Declaration, *recalls* that the Abkhaz side bears a particular responsibility to protect the returnees and to facilitate the return of the remaining displaced population, and *requests* further measures to be undertaken inter alia by the United Nations Development Programme, the Office of the United Nations High Commissioner for Refugees and the Office for the Coordination of Humanitarian Affairs to create conditions conducive to the return of refugees and internally displaced persons, including through quick-impact projects, to develop their skills and to increase their self-reliance, with full respect for their inalienable right to return to their homes in secure and dignified conditions;

13. *Urges* once again the parties to implement the recommendations of the joint assessment mission to the Gali district, carried out under the aegis of the United Nations, *welcomes* the agreement of the parties in this regard to explore the possibility of enhancing support for local law enforcement agencies, and *calls* in particular on the Abkhaz side to improve law enforcement involving the local population and to address the lack of instruction in their mother tongue for the ethnic Georgian population;

14. *Calls on* both parties publicly to dissociate themselves from militant rhetoric and demonstrations of support for military options and for the activities of illegal armed groups, and *reminds* the Georgian side in particular to uphold its commitment to put an end to the activities of illegal armed groups;

15. *Calls*, once again, on the parties to take all necessary steps to identify those responsible for the shooting down of a UNOMIG helicopter on 8 October 2001 and to bring them to justice and *underlines* that it is the primary responsibility of both sides to provide appropriate security and to ensure the freedom of movement of UNOMIG, the CIS peacekeeping force and other international personnel;

16. *Welcomes* constant review by UNOMIG of its security arrangements in order to ensure the highest possible level of security for its staff;

17. *Decides* to extend the mandate of UNOMIG for a new period terminating on 31 January 2003;

18. *Requests* the Secretary-General to continue to keep the Council regularly informed and to report three months from the date of the adoption of this resolution on the situation in Abkhazia, Georgia;

19. *Decides* to remain actively seized of the matter.

United Nations S/2002/846

Security Council

Distr.: General
29 July 2002
English
Original: English and French

France: draft resolution

The Security Council,

Recalling all its previous resolutions on Lebanon, in particular resolutions 425 (1978) and 426 (1978) of 19 March 1978, 1310 (2000) of 27 July 2000, 1337 (2001) of 30 January 2001, 1365 (2001) of 31 July 2001 and 1391 (2002) of 28 January 2002, as well as the statements of its President on the situation in Lebanon, in particular the statement of 18 June 2000 (S/PRST/2000/21),

Recalling further the letter from its President to the Secretary-General of 18 May 2001 (S/2001/500),

Recalling also the Secretary-General's conclusion that, as of 16 June 2000, Israel had withdrawn its forces from Lebanon in accordance with resolution 425 (1978) and met the requirements defined in the Secretary-General's report of 22 May 2000 (S/2000/460), as well as the Secretary-General's conclusion that United Nations Interim Force in Lebanon (UNIFIL) had essentially completed two of the three parts of its mandate, focusing now on the remaining task of restoring international peace and security,

Emphasizing the interim nature of UNIFIL,

Recalling its resolution 1308 (2000) of 17 July 2000,

Recalling further the relevant principles contained in the Convention on the Safety of United Nations and Associated Personnel adopted on 9 December 1994,

Responding to the request of the Government of Lebanon, as stated in the letter from its Permanent Representative to the United Nations of 9 July 2002 to the Secretary-General (S/2002/739),

1. *Endorses* the report of the Secretary-General on UNIFIL of 12 July 2002 (S/2002/746), and in particular its recommendation to renew the mandate of UNFIL for a further period of six months;

2. *Decides* to extend the present mandate of UNIFIL, as recommended by the Secretary-General, for a further period of six months, until 31 January 2003;

3. *Requests* the Secretary-General to continue to take the necessary measures to implement the reconfiguration of UNIFIL as outlined in his recent reports in accordance with the letter of the President of Security Council of 18 May 2001, in the light of developments on the ground and in consultation with the Government of Lebanon and the troop-contributing countries;

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4. *Reiterates* its strong support for the territorial integrity, sovereignty and political independence of Lebanon within its internationally recognized boundaries;

5. *Commends* the Government of Lebanon for taking steps to ensure the return of its effective authority throughout the south, including the deployment of Lebanese armed forces, and *calls on* it to continue these measures;

6. *Calls on* the parties to ensure UNIFIL is accorded full freedom of movement in the discharge of its mandate throughout its area of operation as outlined in the Secretary-General's report;

7. *Encourages* the Government of Lebanon to ensure a calm environment throughout the south;

8. *Reiterates its call on* the parties to continue to fulfil the commitments they have given to respect fully the withdrawal line identified by the United Nations, as set out in the Secretary-General's report of 16 June 2000 (S/2000/590), to exercise utmost restraint and to cooperate fully with the United Nations and UNIFIL;

9. *Condemns* all acts of violence, *expresses great concern* about the serious breaches and the air, sea and land violations of the withdrawal line, and *urges* the parties to put an end to these violations and to abide scrupulously by their obligation to respect the safety of the UNIFIL and other United Nations personnel;

10. *Supports* the continued efforts of UNIFIL to maintain the ceasefire along the withdrawal line through mobile patrols and observation from fixed positions and through close contacts with the parties to correct violations, resolve incidents and prevent their escalation;

11. *Welcomes* the continued contribution of UNIFIL to operational demining, *encourages* further assistance in mine action by the United Nations to the Government of Lebanon in support of both the continued development of its national mine action capacity and emergency demining activities in the south, *commends* donor countries for supporting these efforts through financial and in-kind contributions and welcomes in this regard the establishment of the International Support Group, *takes note* of the communication to the Government of Lebanon and UNIFIL of maps and information on the location of mines and *stresses* the necessity to provide the Government of Lebanon and UNIFIL with any additional maps and records on the location of mines;

12. *Requests* the Secretary-General to continue consultations with the Government of Lebanon and other parties directly concerned on the implementation of this resolution;

13. *Requests also* the Secretary-General, following appropriate consultations, including with the Government of Lebanon and the troop-contributing countries, to submit to the Council before the end of the present mandate a comprehensive report on the activities of UNIFIL, its technical reconfiguration and the tasks presently carried out by the United Nations Truce Supervision Organization (UNTSO);

14. *Looks forward* to the early fulfilment of the mandate of UNIFIL;

15. *Stresses* the importance of, and the need to achieve, a comprehensive, just and lasting peace in the Middle East, based on all its relevant resolutions including its resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973.

United Nations S/2002/847

Security Council

Distr.: General
29 July 2002

Original: English

Letter dated 26 July 2002 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 addressed to the President of the Security Council

On 23 July 2002, I received a copy of the report from the Prosecutor of the International Tribunal for Rwanda, which was also brought to the attention of the Security Council. In that report, the Prosecutor complains of lack of cooperation from the Rwandan authorities and, in particular, describes how the lack of availability of witnesses from Rwanda is likely to hamper the judicial work of the International Tribunal and hinder the Prosecutor's investigations.

Under article 28 of the statute, the President of the International Tribunal has general discretion formally to bring to the attention of the Security Council concerns that might exist regarding the cooperation of States, or their compliance without undue delay with any request for assistance or any order issued by a Trial Chamber relating to the investigation and prosecution of persons accused of committing serious violations of international humanitarian law.

The Prosecutor's report sets out in detail the problems that have arisen in respect of requests for cooperation and assistance made by the Prosecutor and the Trial Chambers. In particular, the Judges of the International Tribunal for Rwanda are concerned because three cases (the Kajelijeli, Nyitegeka and Butare cases) have already been postponed on numerous occasions this year owing to the unavailability of witnesses from Rwanda. Two Trial Chambers have issued decisions drawing attention to the Rwandan Government's failure to issue travel documents in a timely manner so that witnesses could appear before the International Tribunal. Both decisions have been brought to the notice of the Rwandan Government. Copies of those decisions are attached to this letter (see annexes).

In the light of past difficulties, it is uncertain that the trials scheduled to resume in the coming sessions will be able to do so without the intervention of the Security Council.

The Security Council created the International Tribunal for Rwanda because it was convinced that the prosecution of persons responsible for genocide and other

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serious violations of international humanitarian law was necessary for the restoration and maintenance of international peace and security.

I respectfully submit that it is necessary for the Security Council to use such measures as it thinks are appropriate to ensure that the International Tribunal for Rwanda can meet the mandate it has been given.

(*Signed*) Judge Navanethem **Pillay**
President

Annex I

Prosecutor v. Nyitegeka: Decision to adjourn proceedings due to the unavailability of witnesses

TRIAL CHAMBER I

Or: ENG

Before: Judge Navanethem Pillay, Presiding
Judge Erik Mpse
Judge Andrésia Vaz

Registry: Adama Dieng

Date: 19 June 2002

THE PROSECUTOR
v.
ELIEZER NIYITEGEKA
Case No. ICTR-96-14-T

DECISION TO ADJOURN PROCEEDINGS DUE TO THE UNAVAILABILITY OF WITNESSES

Prosecution Counsel:
Carla Del Ponte
Kenneth C Fleming
Melinda Pollard
Amanda Reichman
Kirsten Keith

Counsel for the Accused:
Sylvia Geraghty
Fergal Kavanagh
Callixte Gakwaya

Trial Chamber I is seized of the notification from the Prosecutor relating to the availability of witnesses. The Prosecutor informed the Chamber that no further witnesses for the Prosecution are available for the rest of this week and for an indeterminate period thereafter. In effect, the Prosecution is seeking a directive from the Chamber on the further progress of this trial and an adjournment of the trial, which appears to be inevitable.

This Trial Chamber has a heavy roll of three cases. By way of careful planning, and precise use of all available time, the Chamber, in response to requests for a trial date from both the Prosecutor and Defence Counsel for Mr Elizier Niyitegeka, scheduled two weeks in June 2002, from 17 to 28 June for the hearing of 14 witnesses. 7 witnesses from Rwanda were expected to testify this week. Instead, only one witness arrived.

The non-appearance of the witnesses has caused an upset in the careful planning of trial dates and represents a severe set back to the judicial work of the Tribunal.

We have heard the reasons advanced by Mr Fleming for the Prosecution. We have also caused an investigation to be undertaken by the Registrar and the WVSS-P.
The following facts have come to light:

Since Friday 7 June 2002, the WVSS-P has experienced new difficulties in bringing protected witnesses from Rwanda to trials in the ICTR. The Government of Rwanda had suddenly and without prior notification to the Tribunal, implemented new procedures for the travel of witnesses. The rules oblige witnesses personally to travel to various offices and police authorities in their local areas and obtain three or more clearance documents, namely: *"bon conduct"*, "proof of identity" and *"attestations de non-poursuite"*, before the necessary laissez-passers will be issued to enable them to travel out of Rwanda.

These impositions not only expose protected witnesses but are also not at all clear. For instance, the Director General of Immigration informed the WVSS that the *"Attestation de Non Poursuite"* are obtainable from the Prefecture Offices or the General Prosecutor of the Province/ Prefecture.

The Office of the Provincial Commissioner was contacted who informed WVSS that it was the Office of the Provincial Prosecutor General that would be issuing these certificates. On contacting the latter, they were told that the Office of the Prosecutor General used to issue these certificates in the past, but was no longer doing so – that it was now the Judicial Police who will issue them. Until now, no clear results have emerged. No note of the requirements has been made public nor has the Director General responded to written requests from WVSS for a note of their requirement.

The Tribunal's aircraft made two scheduled trips to Rwanda only to return empty. This is significant wasted expenditure, which the Tribunal can ill-afford.

As a consequence of the actions taken by the Rwandan Government, two trials, this case of Elizier Niyitegeka and the Butare Case before Trial Chamber II, have ground to a stand still and valuable court time is being lost.

The Statute of the Tribunal is binding upon all states. Article 28 of the Statute states that: "states shall cooperate with the International Criminal Tribunal for Rwanda in the investigation and prosecution of persons accused of committing serious violations of international humanitarian law". All states shall also comply without undue delay, with any request for assistance or an order issued by a Trial Chamber. The binding nature of orders to States pursuant to Article 28 of the Statute derives from Chapter VII and Article 25 of the United Nations Charter and Security Council resolutions adopted pursuant thereto.

Rule 56 of the Rules states that:

The State to which a warrant of arrest or a transfer order for a witness is transmitted shall act promptly and with all due diligence to ensure proper and effective execution thereof, in accordance with Article 28 of the Statute.

More specifically, Rule 58 of the Rules provides:

The obligations laid out in Article 28 of the Statute shall prevail over any legal impediment to the surrender or transfer of the accused or of a witness to the Tribunal, which may exist under the national law or extradition treaties of the States concerned.

THE CHAMBER:

DRAWS the attention of the Rwandan Authorities to these legal obligations to cooperate with the Tribunal.

The Chamber is compelled to adjourn the proceedings after completion of the testimony of GK, to Monday, 24 June 2002.

REQUESTS the Rwandan Authorities to ensure that the travel of the witnesses scheduled for these cases is facilitated so that the trial can resume without further delay, on Monday.

DIRECTS the Registrar to transmit a copy of this Decision as soon as possible to the Government of Rwanda or if necessary to any authority charged with the task of permitting or facilitating the appearance of witnesses before the International Criminal Tribunal for Rwanda (ICTR).

Done at Arusha, this 19th day of June 2002

Judge Navanethem Pillay
Presiding

Judge Erik Møse

Judge Andrésia Vaz

Annex II

The Prosecutor v. Pauline Nyiramasuhuko et al.: Text of oral decision, 19 June 2002

Text of an Oral Decision rendered by the Judges of Trial Chamber II 19 June 2002 in the Butare case. **For the official version, please make reference to the transcripts of the proceedings.**

"The Statute of this Tribunal is binding upon all states. In order to comply with Article 28 of the Statute, all states must cooperate with the Tribunal in the investigation and prosecution of persons accused of committing serious violations of international humanitarian law. All states must also comply without undue delay with any request for assistance or an order issued by a Trial Chamber.

Rule 55 of the Rules states that: The State to which a warrant of arrest or a transfer order for a witness is transmitted shall act promptly and with all due diligence to ensure proper and effective execution thereof, in accordance with Article 28 of the Statute.

More specifically, Rule 58 of the Rules provides: The obligations laid out in Article 28 of the Statute shall prevail over any legal impediment to the surrender or transfer of the accused or of a witness to the Tribunal which may exist under the national law or extradition treaties of the States concerned.

The Trial Chamber has been informed by the Registry that the Rwandan Authorities have established new legal procedures regarding the issuance of travel documentation for witnesses residing in Rwanda. These procedures directly affect witnesses scheduled to appear before the tribunal. The implementation of these new procedures has resulted in the inability of this Chamber to continue with trial due to the unavailability of witnesses. It should be however noted that those procedures cannot take precedence over the State obligations under Article 28 of the Statute as spelt out in Rule 58 of the Rules.

In the light of the foregoing, this Chamber asks the Rwandan Authorities to meet their legal obligations to facilitate the work of this tribunal and to ensure that witnesses are able to travel to Arusha to allow the tribunal to continue its work by Monday 24 June 2002.

The Registry should ensure that the Rwandan Authorities are informed accordingly."

United Nations S/2002/848

Security Council

Distr.: General
30 July 2002
English
Original: Arabic

Letter dated 23 July 2002 from the Permanent Representative of Iraq to the United Nations addressed to the President of the Security Council

On instructions from my Government, I have the honour to transmit to you herewith the text of the statement on United States threats against Iraq that was adopted by the National Assembly of Iraq at its extraordinary session held on 15 July 2002 (see annex).

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(*Signed*) Mohammed A. **Aldouri**
Permanent Representative

Annex to the letter dated 23 July 2002 from the Permanent Representative of Iraq to the United Nations addressed to the President of the Security Council

Statement adopted by the National Assembly of Iraq at its extraordinary session of 15 July 2002

The United States Administration and the Congress of the United States are engaged in a campaign that is inimical to Iraq, that seeks to change its national regime and establish a government sympathetic to their policy and that uses sundry political, publicistic, economic and military means to achieve this purpose.

All of this takes place outside the framework of international law and the United Nations. The United States is violating Iraq's airspace, killing citizens, destroying property, allocating funds for hostile action, unleashing threats and preventing the Security Council from lifting the embargo that was imposed on Iraq without legal justification. These unlawful actions have pushed the United Nations aside by ignoring its Charter, and they have violated the principles of international law and flouted international custom. This has created an international situation where power politics has replaced the politics of law. The Arab countries and the region in which they are located have thus come to be menaced with a loss of security and stability, which jeopardizes peace and creates a situation that is incompatible with the interests of their peoples and the interests of the world. This is happening when, at the same time, the Zionist entity, with the support and encouragement of the United States administration and the Congress of the United States and on the pretext of combating terrorism, is repressing the Palestinian people, pursuing a policy of mass extermination against it and preventing it from achieving its independence and regaining its homeland. Policies such as this, based as they are on armed force, extra-legal action and the exploitation of the information media to mislead public opinion, have created a tragic situation in Iraq, where more than 1.6 million innocent citizens have died because of the deliberate prolongation of the embargo, and the Palestinian people has been put at risk of extermination and prevented from securing its national rights.

It is to be noted that the Congress of the United States, which is supposed to represent the people of the United States, has constantly adopted a hostile attitude on peoples' issues that is no less unjust than that of the present administration.

The National Assembly, representing the people of Iraq, condemns the United States policy of aggression as it relates to its attitude towards Iraq and its attitude towards Palestine. It condemns the speech delivered by United States President George W. Bush on 25 June 2002 and the statements that have been made and the actions taken with respect to Iraq.

On behalf of the people of Iraq, the National Assembly declares that it stands strong and united behind the leadership of the President and Leader Saddam Hussein (may God keep him), that it supports all of the measures he has taken and will take in future to defend the security and independence of Iraq and protect the national regime, and that it will do everything in its power to that end in the belief that all attempts at aggression are destined to fail.

It addresses itself to all the representative assemblies of the Arab countries, the Islamic countries and all countries that cherish peace and calls upon them to meet their responsibility to defend rightfulness, to resist the politics of force, to safeguard the Charter of the United Nations and to condemn the actions and statements of the United States administration and Congress. It urges them to do everything they can to rectify an international situation that has been created by the policy of hegemony being pursued by the United States administration with the support of the Congress of the United States.

United Nations S/2002/849

Security Council

Distr.: General
30 July 2002
English
Original: Arabic

Letter dated 27 July 2002 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General

Further to our earlier letters to you concerning acts of piracy and provocation committed by the United States naval forces based in the Arabian Gulf against the wishes of the peoples of the region, I should like to inform you that such forces are continuing to engage in hostile action against vessels carrying civilian merchandise in Iraqi territorial waters and elsewhere. Intrusive patrols of the United States Navy, joined by Australian naval units, are intercepting these vessels and assaulting and questioning their crews. They sometimes detain ships and their crews for long periods of time, and they have in the past gone so far as to sink some of them. I present to you hereunder some examples of these practices.

1. On 28 June 2002, two Australian military craft with 20 armed men on board assaulted the Iraqi tender *Al-Fida'* as it was proceeding from Umm Qasr to Mina' al-Ma`qil, two Iraqi ports. The personnel forcibly boarded the tender and seized the crewmen. They searched the vessel, broke the locks on its holds and diverted it from its course a distance of six nautical miles out to sea to a point off Al-Mina' al-Amiq. The tender was thoroughly searched, and they asked for its name and its port of departure. An Australian frigate bearing the hull number 02 was following the tender. The tender subsequently returned to Mina' al-Ma`qil on 30 June 2002.

2. On 7 July 2002, two armed American craft from the United States frigate intercepted Iraq Ports Authority mechanical tender No. 1 at a point half a nautical mile before it would have reached the Khawr al-Amayah oil terminal to resupply it with fresh water. The United States personnel boarded the tender by force of arms, diverted it from its course towards the frigate and detained its crew. They subsequently released the tender and its crew, and it continued on its course towards the Khawr al-Amayah terminal.

3. On 8 July 2002 the same tender and the Iraqi tugboat *Al-Rayah* were subjected to an armed attack by two armed military craft belonging to the Australian frigate bearing the hull number 05 while the tender was supplying the tugboat with fresh water. They left the tender later the same day.

The presence of vessels of the United States Navy and units of the Australian fleet and their assaults on ships carrying civilian merchandise in the area are acts of aggression that endanger the movement of civilian shipping in the Arabian Gulf. They are incompatible with the provisions of the Charter of the United Nations, international law and the international norms governing the safety of maritime navigation, and the United States of America and those assisting it must bear full

legal responsibility for them. Iraq affirms its right, in accordance with the principle of international responsibility, to seek compensation for the damage sustained by it or by its nationals as a result of the criminal acts being committed by these invading forces against ships in the Arabian Gulf region.

We urge you to intervene in order to prevent acts of aggression and terrorism by the United States that are in flagrant violation of the Charter of the United Nations, public international law and international humanitarian law.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(*Signed*) Mohammed A. **Al-Douri**
Ambassador
Permanent Representative